78-1641

Supreme Court, U. S.
FILED
MAR 7 1979
MICHAEL RODAK, JR., CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1978

No. 78-1641

PAUL HENRY PARKER,
Petitioner,

vs.

UNITED STATES OF AMERICA,
Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

ARNOLD D. LEVINE,
Attorney for Petitioner
Levine, Freedman, Hirsch & Levinson
Professional Association
725 East Kennedy Boulevard
Tampa, Florida 33602

INDEX

	Page
Opinion Below	1
Jurisdiction	1
Questions Presented	2
Constitutional Provisions and Statutes Involved	3
Statement of Case	3
Statement of Facts	4
Reasons for Granting the Relief	12
Conclusion	18
Certificate of Service	18

TABLE OF AUTHORITIES

Case Citations: Page

Benes v. U.S.,
276 F.2d 99 (C.A., 6th Cir. 1960) 12

Chaifetz v. U.S.,
228 F.2d 133 (C.A.D.C.), *rev'd in part on other grounds*, 81 S.Ct. 1051, 366 U.S. 209, 6 L.Ed.2d 233, *rehearing denied*, 81 S.Ct. 1901, 366 U.S. 955, 6 L.Ed.2d 1247 12

Freije v. United States,
386 F.2d 408 (1st Cir. 1967) 17

In re Subpoena to Nixon,
360 F.Supp. 1 (D.D.C.), *aff'd sub nom.* 16

Marbury v. Madison,
5 U.S. (1 Cranch) 137 (1803) 15

Nigro v. United States,
117 F.2d 624 (8th Cir. 1941) 17

Nixon v. Sirica,
487 F.2d 700 (D.C.Cir. 1973) 16

Payton v. United States,
222 F.2d 794 (U.S.App.C.C. 1955) 17

Toussie v. U.S.,
99 S.Ct. 858, 397 U.S. 112, 25 L.Ed.2d 156 (1970) 12

Trussell v. United States,
278 F.2d 478 (6th Cir. 1960) 17

United States v. Fleetwood,
528 F.2d 528 (5th Cir. 1976) 17

United States v. Hall,
178 F.2d 853 (2d Cir. 1950) 17

United States v. Harrell,
436 F.2d 606 (1970) 17

United States v. Kimbrew,
380 F.2d 538 (6th Cir. 1967) 17

U.S. v. Marion,
92 S.Ct. 455, 404 U.S. 307, 30 L.Ed.2d 468 (1971) 12

United States v. Nixon,
418 U.S. 706, 94 S.Ct. 3090, 41 L.Ed.2d 1039 (1974) 16

United States v. Toner,
173 F.2d 140 (3d Cir. 1949) 17

STATUTES AND CONSTITUTIONAL PROVISIONS:

Title 18, United States Code,
§§ 2, 371, 842, 842(a)(3)(A), 844, 844(i) 3
§ 3282 3-12-13

Title 26, United States Code,
§ 5861, 5861(d), 5861(e), 5871 3

United States Constitution,
Fifth Amendment 3
Sixth Amendment 3-17

OTHER AUTHORITIES:

4 A.L.R.3d 709 17
Rule 17, Federal Rules of Criminal Procedure 15
Supreme Court Standard 509 15

IN THE

Supreme Court of the United States

OCTOBER TERM, 1978

NO._____

PAUL HENRY PARKER,
Petitioner,

vs.

UNITED STATES OF AMERICA,
Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

PAUL HENRY PARKER, by and through his undersigned attorneys, petitions for a Writ of Certiorari to review the judgment of the United States Court of Appeals for the Fifth Circuit in this case.

OPINION BELOW

The Panel Opinion of the Court of Appeals (App. A, *infra*, is reported at 586 F.2d 422 (5th Cir. 1978).

JURISDICTION

The Panel Opinion of the Court of Appeals was entered on December 18, 1978. The Court of Appeals denied Petitioner's Motion for Rehearing and Reconsideration on February 5, 1979. The jurisdiction of this Court in invoked under 28 U.S.C. 1254(1).

QUESTIONS PRESENTED

1. Whether the trial court erred in denying defendant's Motion to dismiss the Indictment herein, said Indictment having been "found" in excess of five (5) years next after the offense had been committed.

2. Whether the trial court erred in handling the *in camera* proceedings relating to a Witness Subpoena Duces Tecum served upon counsel for the key prosecution government witnesses when:

   a) the trial court, during the course of the *in camera* inquiry of said attorney failed to examine the documents that were the subject matter of said subpoena that were contained in counsel's file produced in response to said subpoena.

   b) the trial court relied upon statements and representations of counsel for the government's key prosecution witnesses, who occupied a position adverse to the defendant herein, regarding the existence or non-existence of documents in his file produced in accordance with a Witness Subpoena Duces Tecum served upon him, as opposed to the examination of said documents by the trial court.

   c) Non-privileged communications reflected in the documents that were in the possession of counsel for the key prosecution witnesses that contained material and relevant matter relating to and bearing upon the credibility of the key prosecution witnesses were never provided the defendant, due to the trial court's failure to examine the documents in the possession of counsel during the *in camera* proceedings and the court's reliance upon advice of counsel regarding the tenor and content of the documents produced in response to the defendant's Witness Subpoena Duces Tecum.

3. The trial court erred in admitting in evidence in the government's case *in chief*, through the testimony of the government's key prosecution witnesses, the fact that said witnesses had been previously convicted of the offenses for which the defendant stood charged, all of which occurred prior to any impeachment of either of said key prosecution witnesses.

CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED

a. Fifth Amendment, United States Constitution:

"No person shall . . . be deprived of life, liberty, or property, without due process of law . . ."

b. Sixth Amendment, United States Constitution:

"In all criminal prosecutions, the accused shall enjoy the right . . . to be confronted with witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense."

c. Sixth Amendment, United States Constitution:

"In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury . . ."

d. Title 18, United States Code, § 3282:

"Except as otherwise expressly provided by law, no person shall be prosecuted, tried or punished for any offense, not capital, unless the indictment is found . . . within five (5) years next after such offense shall have been committed."

STATEMENT OF CASE

Petitioner, PAUL HENRY PARKER, together with two other individuals, was charged with a three-count Indictment, being Case No. 76-62-Orl.-Cr.-Y, which alleged violations of Title 18; U.S.C., §§ 2, 371, 842, 842(a)(3)(A), 844, 844(i); 26 U.S.C., §§ 5861, 5861(d), 5861(e), and 5871. The defendant, in due course, entered his plea of not guilty; proceeded to trial; and was convicted of all counts by virtue of a jury verdict returned September 25, 1976.

Petitioner filed appropriate pre-trial motions, all of which were denied.

Petitioner was sentenced to serve a term of ten (10) years in prison on Count I, ten (10) years on Count II, and five (5) years on Count III, all to run concurrently.

The defendant filed a timely appeal from the aforesaid convictions and sentences to the United States Court of Appeals for the Fifth Circuit. The defendant's conviction was affirmed by a Panel Opinion dated December 15, 1978. The defendant filed a timely Petition for Rehearing and Reconsideration en Banc, which was denied by Order of the United States Court of Appeals for the Fifth Circuit on February 5, 1979.

These proceedings, in order to be timely, are due to be filed before this Court on March 7, 1979. Petitioner is presently at liberty on bond, which was filed contemporaneous with his arrest after the return of the Indictment herein.

The following abbreviations will be used throughout this Petition: "R" — Record on Appeal
"App." — Appendix to Brief

STATEMENT OF FACTS

The three-count Indictment charged Petitioner and others with several offenses committed against the United States of America. Count I charged that the offense occurred on April 16, 1971; Count II charged that the offense occurred on April 16, 1971; and Count III, the conspiracy count, charged that the offense occurred from on or about February 25, 1971, and continuously thereafter, up to and continuing through April 16, 1971.

The Indictment was returned by the Grand Jury at approximately 7:00 o'clock P.M., April 15, 1976, and in due course thereafter filed with the Clerk of the United States District Court for the Middle District of Florida, at Orlando, Florida. (App. B). Petitioner's trial attorney moved to dismiss the Indictment and contended that the defendant could not be prosecuted, tried or punished for any offense since the Indictment

was not found within five (5) years next after the commission of the offenses charged. The Motion to Dismiss was denied and the matter proceeded to trial. During the course of the trial the government witnesses testified that in the early morning hours at Ocoee, Orange County, Florida, in the Middle District of Florida, on April 16, 1971, they were in possession of destructive devices and caused a building located on the premises of Overland Hauling Co., Ocoee, Florida, to be damaged or destroyed through the use of said destructive devices, after which incident the persons who possessed said destructive devices and caused the destruction of the building were arrested, almost immediately thereafter, by federal law enforcement officials. (App. C). After the government rested its case *in chief*, the defendant moved for a directed verdict of acquittal, which was denied, and at the conclusion of all evidence that motion was renewed and likewise denied.

During the course of the trial of Petitioner, his attorney, together with counsel for a co-defendant who was acquitted in the trial, caused to be issued and served upon Norman Abood, Esq., of Jacksonville, Florida, and Scott Charlton, Esq., of Tampa, Florida, Witness Subpoenas Duces Tecum calling for them to appear as defense witnesses in this cause and produce certain documents in their files relating to their respective representations of the two key prosecution witnesses against Petitioner; specifically the Witness Subpoenas Duces Tecum called for the attorneys to produce their office files, with all correspondence concerning their dealings with Mr. Herman F. Witt and Mr. Charles H. Bullard, the government's key prosecution witnesses against Petitioner, and all correspondence and memoranda relating to any plea negotiations or other dealings by counsel in behalf of these witnesses with law enforcement officials of the United States of America.

Both attorneys asserted the attorney-client privilege and refused to either testify as to their communications with Messrs. Witt and Bullard or communications to the federal law enforcement officials in their behalf, or to divulge their files to anyone absent a court order.

Earlier in the trial of Petitioner, Mr. Witt was called as a government witness and testified generally regarding contacts, dealings and communications with both Mr. Abood and Mr. Charlton, and the actions of those attorneys in his behalf to obtain leniency from the government in connection with sentences that had previously been imposed on Mr. Witt as a result of his earlier conviction for the offenses for which Petitioner stood charged. Mr. Bullard was likewise called as a government witness in its case *in chief*, and testified in the same manner as Mr. Witt.

At the same time that Mr. Charlton represented both Mr. Witt and Mr. Bullard, in an attempt to obtain immunity for them from further prosecution by the government, in exchange for their testifying, he was prosecuting a million dollar civil lawsuit against Teamster's Local Union No. 385, Petitioner Paul Henry Parker, and Mr. Witt, all of whom were defendants in a civil action brought by Overland Hauling Company.

The trial court upheld the attorney-client privilege asserted by the subpoenaed attorneys and ruled that the attorneys for the defense could inquire only as to the same matters contained in the attorneys' files, as was testified to by Messrs. Witt and Bullard; and the court stated that it would not allow the defense attorneys to inspect their files. After some discussion, the court inquired of counsel as follows:

"THE COURT: Did you want them to reveal to me what is in their files?

MR. RUSS: I would request an *in camera* inspection of their files so as to resolve these questions.

MR. CHARLTON: I was about to suggest — I have no objection to Your Honor inspecting my files or having one of your law clerks, even at your direction, brief the file.

THE COURT: Well, I would have to do it myself on the record on an *in camera* basis, I suppose."

(App. D).

In actuality, however, the court never inspected the files. Rather, during an *in camera* colloquy between counsel and the court, the court let the attorneys themselves relate to the court which material in their files they felt might be relevant. This was in spite of the fact that the attorneys, being witnesses in the case, were subject to the rule of sequestration and had not heard the testimony of Herman F. Witt; and they were therefore not in a position to know what was relevant or what was not relevant. This was pointed out to the judge on several occasions by Mr. Abood:

> "...My files contain letters, documents, motions, and things of that matter, which may or may not be relevant. I don't know what Mr. Witt said on the witness stand yesterday, so, therefore, even if he has published some of these matters, I don't know what they are..."

A careful inspection of the *in camera* transcript reveals that the court did not himself inspect the files, but relied upon the witnesses to bring to the court's attention letters, documents, or other materials that the witnesses themselves deemed relevant.

On page 28 of the *in camera* transcript, the following exchange took place between the court and Mr. Abood:

"THE COURT: Do you have anything else in your file or in your communications between either of these two people that would indicate they were given promises by the Government for their testimony?

MR. ABOOD: Yes, I do."

Later, during the same *in camera* examination, the court inquired:

"THE COURT: But let me ask you this, have you got any

statements by Witt in which Witt admits that Parker knew nothing of the bombs and that Wingate or Burch had nothing to do with the bombing?

MR. ABOOD: From Witt?

THE COURT: Yes.

MR. ABOOD: No, not written statements. I have oral—well, of course, oral statements had to be that way because Witt had nothing to do with it.

The statements that I had of, I have, Your Honor, and this is up to the Court, I guess, the defense lawyers, the statements that I have recently received from Witt is, are the type of statements that say I am going to get Parker for fooling with my wife, and they go on and on, of that nature.

Whether they will be testified to or relevant, I don't know.

THE COURT: Yes.

MR. ABOOD: But I am uncomfortable with having them, and Mr. Russ is insisting I give them to him.

He may or may not use them if he sees them, but they weren't mentioned in the Grand Jury testimony that I looked at.

As I say, I am a witness that can't be in court to know what people are talking about.

THE COURT: Right."

It is apparent that the court did not look at Mr. Abood's file. Furthermore, Mr. Abood had testified that he has in his possession oral statements relevant to the defense that were

never heard by the court. Evidently, they are either in the witness' own knowledge or on tape. Either way, the court did not even inquire as to the nature and extent of this knowledge, or hear or examine such tapes or the transcripts thereof which might exist, that Mr. Abood had advised the court were probably relevant.

The same method of examination was employed by the court in examining Mr. Scott Charlton. It was even more crucial that the court examine Mr. Charlton's file, as there had been an obvious conflict of interest in his representation. Having represented the Overland Hauling Company in a suit against Teamsters Local Union No. 385 and Paul Parker, and having been instrumental in obtaining immunity for the chief witnesses against Parker, Mr. Charlton was then allowed to determine what evidence was, or was not, relevant to Parker's defense. Charlton determined that nothing in his file was relevant.

After the *in camera* examination, the court did not advise counsel for the defense that he had not actually looked over the items in the files nor personally ascertained for himself whether or not such items in the file were relevant. Furthermore, the court did not have any way of knowing if there were other items in the files that might, at a later date, become relevant as a result of testimony by other witnesses.

In addition, the court did not advise defense counsel that Mr. Abood had certain oral statements, tapes, or transcripts of same, that he had never heard. The court only advised counsel that he had inspected the file and was presenting that evidence he thought was relevant, which was in reality only evidence that Mr. Abood and Mr. Charlton thought relevant:

"THE COURT: I have reviewed *in camera* the files of Mr. Abood and Mr. Charlton regarding their representation of Mr. Witt and Mr. Bullard.

I did not swear either lawyer because I felt that as an attorney and officer of the court it was not necessary for me to swear them.

I want the record to reflect that I spent approximately an hour to an hour and a half with Mr. Abood going through his file with him.

We went through it carefully as I could and as he could and there is absolutely nothing in that file that would indicate in any way, shape or form any impropriety on Mr. Abood's part in connection with his representation of either, well, specifically Bullard, or Witt, either of these two people."

(App. E).

The first witness called by the government in this case was Herman F. Witt, and the initial questions asked of Mr. Witt by the government prosecutor, and the answers given, are as follows:

BY MR. HORWITZ, ASSISTANT U.S. ATTORNEY:

"Q Sir, please state your full name and spell your last name for the record.

A My name is Herman Fulton Witt, W-i-t-t.

Q Sir, are you presently in custody?

A I am presently a federal prisoner in the custody of the United States Marshal's Service, Orlando Division.

Q Are you serving any sentence at this time.

A Sir?

Q What sentence are you serving?

A My present sentence is a ten year sentence. 42A2 sentence.

Q Meaning what? Meaning what?

A My understanding that it means that I am eligible for parole any time the Parole Board would see fit to parole me.

Q *Of what charges were you convicted?*

A *I was convicted of multiple charges in participating in some bombings.*

Q And what was your original sentence for that?

A The original sentence was, it was 20 years is the way it ended, the total.

Q The total? There were various counts that total 20 years?

A Yes.

Q Now, have you been granted immunity from further prosecution to testify here today?

A I have, sir.

Q And you recall when it was that you were granted immunity.

A If my recollection serves me correct, sir, it was in the, I believe, the fore part of November of 1975.

Q In addition to being granted immunity, has the Government made any other promises to you to testify here today?

A No, sir, other than my safety, safe protection.

Q Did the Government also agree to advise anyone whom you desired as to the extent of your cooperation?

A Yes, sir." (Emphasis added) (App. F).

Government counsel made an opening statement in this cause, and counsel for defendant reserved his right to make an opening statement until the conclusion of the government's case.

After the presentation of the aforesaid testimony by Mr.

Witt, he then related in detail what he claimed to be his role and Petitioner's role in the bombings that are the subject matter of the Indictment, and which facts constituted the "multiple charges in participating in some bombings" that Mr. Witt testified he had been convicted of.

During the course of the closing argument of government counsel, after the presentation of all evidence, in order to convince the jury that Petitioner was guilty of the bombing charges set out in the Indictment, and in order to enhance the credibility and believability of Mr. Witt, government counsel advised the jury that:

> "You heard from Herman Witt, he told you how he was a convicted felon, *convicted of these bombing incidents.*" (Emphasis added). (App. G)

REASONS FOR GRANTING THE RELIEF

1. Title 18, United States Code, § 3282, in part provides as follows:

> "Except as otherwise expressly provided by law, no person shall be prosecuted, tried or punished for any offense, not capital, unless the indictment is found...within five (5) years next after such offense shall have been committed."

A statute of limitations in a criminal case, unlike the statute of limitations in a civil matter, is not merely a statute of repose, but creates a bar to prosecution. *Chaifetz v. U.S.*, 228 F.2d 133 (C.A.D.C. 1960), *rev'd in part on other grounds*, 81 S.Ct. 1051, 366 U.S. 209, 6 L.Ed.2d 233, *rehearing denied*, 81 S.Ct. 1901, 366 U.S. 955, 6 L.Ed.2d 1247; *Benes v. U.S.*, 276 F.2d 99 (C.A., 6th Cir. 1960). The purpose of Title 18, United States Code, § 3282, is to limit a defendant's exposure to criminal prosecution to certain fixed periods of time following the occurrence of those acts that the Legislature has decided to punish by criminal sanctions. *Toussie v. U.S.*, 99 S.Ct. 858, 397 U.S. 112, 25 L.Ed.2d 156 (1970); *U.S. v. Marion*, 92 S.Ct. 455, 404 U.S. 307, 30 L.Ed.2d 468 (1971).

To the extent that any charged offense occurred, said offense was completed and accomplished in the early morning hours on April 16, 1971, when the government witnesses who testified against Petitioner bombed the premises of Overland Hauling Company and were thereafter arrested. The return of the Indictment in this cause, at 7:00 P.M. on April 15, 1976, was clearly beyond the period of time set forth in Title 18, United States Code, § 3282.

In addition to the fact that the Indictment was returned approximately twelve (12) hours after the statute of limitations had expired, at common law a year consisted of three hundred sixty-five and one-fourth (365-¼th) days. Under the five (5) year statute, the government would be required to bring its indictment within three hundred sixty-five and one-fourth (365-¼th) days, times five (5), or one thousand eight hundred twenty-six and one-fourth (1,826-¼th) days. This allows and permits for one (1) leap year during a five (5) year period of time. In this case, the period of time between the claimed offense and Petitioner's indictment contained one (1) additional day, or a total of one thousand eight hundred twenty-seven (1,827) days elapsed. Under the common law definition, the common law statute of limitations had run before the indictment was returned, irrespective of the time of day that the offense occurred and the time of day that the jury returned the indictment herein.

In light of the passage of in excess of five (5) years from the time and date of the commission of the offenses charged, this Court should consider and dispose of the aforesaid issue in order to eliminate the ambiguity that has now appeared in connection with the interpretation and application of Title 18, United States Code, § 3282, by the district court and appellate court by virtue of the disposition of these proceedings below.

2. During the course of cross-examination of one of the government's key prosecution witnesses, to-wit: the government's first witness, Mr. Witt's former attorneys, appeared before the court in response to witness subpoenas duces tecum

which called for them to produce their office files, correspondence and memoranda concerning their respective dealings with Mr. Witt and another key prosecution witness, Mr. Bullard, and the efforts of said attorneys in behalf of those witnesses to obtain leniency and favorable treatment for those witnesses in regard to the sentences that those witnesses were presently serving and other possible federal criminal prosecution, all of which would materially bear upon the believability and credibility of these government witnesses. The two attorneys refused to produce the materials for defense inspection under a claim of attorney-client privilege, and all counsel joined in a request of the court to make an *in camera* investigation of the attorneys and their files to determine the propriety of the respective claims of privilege. The trial judge made a general inquiry of Scott Charlton, Esq., one of the attorneys who had been subpoenaed, *in camera*, and based upon the statements made to him by Mr. Charlton, without any review of his file, the judge found and determined that there was no evidence contained in his file, either within or without the privilege, that could help the defendants, and accordingly refused to permit the defendants' attorneys to examine or have access to counsel's files. The Opinion of the Fifth Circuit Court of Appeals holds as follows:

> "On appeal, Parker contends that a careful reading of the *in camera* hearing transcript discloses that the district court did not personally examine and inspect the files of the two attorneys, but merely engaged in an *in camera* colloquy, allowing the two attorneys merely to relate the contents of their files. Even accepting this scenario, we cannot conclude that the district judge committed reversible error./6
>
> "We agree with Parker, that a better procedure is possible to avoid placing a defendant in the dilemma of not knowing what documents were produced but not ordered delivered to defense counsel. First, each document produced could have been identified on the record for purpose of review. Second, the district judge could have personally examined and ruled on each document, on the record./7 Absent the custodian's improper withholding of materials, this would preclude the omission of possibly exculpatory material because of simple ignorance of its existence. Finally, the district court could have detailed the methods used in examining the documents and his findings to all counsel. However, that the district court could have done more does not require us to set aside Parker's conviction. The district court here was satisfied with the procedure used. We cannot say that the district court abused its substantial discretion afforded under Fed.R.Crim.P. 17 to oversee the subpoena process...."

Under the provisions of Rule 17, Federal Rules of Criminal Procedure, a defendant has an absolute right to have a witness subpoena duces tecum issued and a witness respond thereto with the documents in question. Sub-section (c) provides that: "The court on motion made promptly may quash or modify the subpoena if compliance would be unreasonable or oppressive." There are no provisions set out in any rule of procedure or statute, except in the Supreme Court Standard No. 509, for an *in camera* proceeding or in the manner in which same is to be conducted. To the extent that it is proper for a court to consider a claim of privilege in response to a subpoena duces tecum and make a determination out of the presence of counsel and the defendant, in order not to breach the claimed privilege, the *in camera* proceedings must not take place in a vacuum, particularly under circumstances where Mr. Charlton not only acted as counsel for Mr. Witt and Mr. Bullard, but Mr. Charlton was counsel for Overland Hauling Company in civil proceedings filed against the Petitioner, the international union of which he was a part, the local union of which he was president, and Mr. Witt, wherein in excess of One Million ($1,000,000.00) Dollars in civil damages was sought for the bombing that is the subject matter of the Indictment. Since, "it is emphatically the province and duty of the judicial department to say what the law is." *Marbury v. Madison*, 5 U.S. (1 Cranch) 137 (1803). The manner and means by virtue of which the court gains and acquires the knowledge to state the law, particularly in a criminal proceeding, is critical. Since we are concerned with an evidentiary privilege, the validity and scope of the privilege is unquestionably a judicial decision, and in order to resolve those issues the court has the power to order an *in camera* examination in order to decide the validity and scope of the privilege as

raised by counsel. *In re Subpoena to Nixon*, 360 F.Supp. 1 (D.D.C.), *aff'd sub nom. Nixon v. Sirica*, 487 F.2d 700 (D.C.Cir. 1973). When the question of privilege was raised before Judge Sirica, he ordered an *in camera* examination of the information itself so he could determine whether disclosure would be contrary to "public interest." A majority of the Court of Appeals for the District of Columbia affirmed the aforesaid ruling by Judge Sirica and held that, "...the courts have repeatedly asserted that the applicability of privilege is in the end for them and not the Executive to decide. They have, moreover, frequently ordered *in camera* inspection of documents for which a privilege was asserted in order to determine the privilege's applicability." *Id.*, at 713-714. This Court, in *United States v. Nixon*, 418 U.S. 706, 94 S.Ct. 3090, 41 L.Ed.2d 1039 (1974), specifically upheld the decision of Judge Sirica and the Court of Appeals, each of which determinations and rulings is absolutely contrary to the actions of the trial court below and the affirmance by the United States Court of Appeals for the Fifth Circuit thereof. The effect of the trial court's determination, as affirmed by the United States Court of Appeals for the Fifth Circuit in the Panel Opinion, was to deny to Petitioner the benefit of significant impeaching and exculpatory material that has come into possession of Petitioner's counsel after the conclusion of the trial below, and only as a result of the production of such matters in a subsequent trial that took place in the United States District Court for the Middle District of Florida, at Orlando, Florida, involving most of the same facts that gave rise to Petitioner's Indictment, but the trial of another individual. (App. H).

The increasing complexities of our society, and particularly the criminal process and proceedings, requires that this Court grant the Petition herein and direct, by virtue of an opinion on the merits, the manner in which trial courts are to proceed in connection with *in camera* proceedings when witnesses seek to avoid appearance before a court or the production of documents on a claim of privilege presented to the trial court by said witness.

3. The Sixth Amendment to the United States Constitution provides, in part, that in all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury. The admission in evidence of the key prosecution witnesses' convictions for the identical offenses of which Petitioner stood accused, violated and infringed upon Petitioner's Sixth Amendment rights to a fair trial from an impartial, and therefore untainted, jury; particularly where the evidence is presented through the testimony of the government's first witness, at the inception of the trial, prior to the time that that witness has been impeached or his credibility attacked. The appellate decisions regarding this subject matter are confusing, contradictory, and lack uniformity and a proper sense and consideration of the defendant's Sixth Amendment rights. The Fifth Circuit Circuit Court of Appeals, contrary to its own decisions in *United States v. Harrell*, 436 F.2d 606 (1970), and *United States v. Fleetwood*, 528 F.2d 528 (5th Cir. 1976), held that it was proper to present before a trial jury the key prosecution witnesses' convictions for the same offenses for which Petitioner stood accused on the justification that:

> "We believe that the government was merely attempting to disclose adverse facts relevant to the witnesses' credibility in anticipation of damaging cross-examination and defense argument. Such a tactic is permissible."

To permit the affirmance of the defendant's conviction to stand, predicated upon the proposition of law as hereinabove set out, will create chaos and confusion in the application of the propositions of law that have stood the test of time, found in 4 A.L.R.3d 709; *Trussell v. United States*, 278 F.2d 478 (6th Cir. 1960); *United States v. Hall*, 178 F.2d 853 (2d Cir. 1950); *United States v. Toner*, 173 F.2d 140 (3d Cir. 1949); *Nigro v. United States*, 117 F.2d 624 (8th Cir. 1941); *Payton v. United States*, 222 F.2d 794 (U.S.App.D.C. 1955); *United States v. Kimbrew*, 380 F.2d 538 (6th Cir. 1967); *Freije v. United States*, 386 F.2d 408 (1st Cir. 1967).

CONCLUSION

As previously set forth in this Petition, Petitioner respectfully submits that the decision and opinion of the Fifth Circuit Court of Appeals in this case raises important questions affecting the administration of criminal law in the United States district and appellate courts, and therefore Petitioner respectfully urges this Court to issue a Writ of Certiorari to the Circuit Court of Appeals for the Fifth Circuit so these issues may be more fully examined through briefs and argument, and receive the benefit of this Court's judgment and final resolution.

/S/

ARNOLD D. LEVINE, Esq., of
Levine, Freedman, Hirsch & Levinson
Professional Association
725 East Kennedy Boulevard
Tampa, Florida 33602
(813/229-6585)
Attorney for Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Petition for a Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit has been furnished, by mail, to Wade McCree, Jr., Solicitor General of the United States of America, Department of Justice, Washington, D.C.; and to Edward W. Wadsworth, Clerk of the United States Court of Appeals for the Fifth Circuit, 600 Camp Street, New Orleans, Louisiana 70130, this ~~6th~~ 23rd day of March, 1979.

/S/

ATTORNEY

Supreme Court, U. S.
FILED
APR 27 1979
MICHAEL RODAK, JR., CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1978

NO. 78-1641

PAUL HENRY PARKER,
Petitioner,

vs.

UNITED STATES OF AMERICA,
Respondent.

APPENDICES TO PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

ARNOLD D. LEVINE,
Attorney for Petitioner
Levine, Freedman, Hirsch & Levinson
Professional Association
725 East Kennedy Boulevard
Tampa, Florida 33602

IN THE

Supreme Court of the United States

OCTOBER TERM, 1978

NO._____

PAUL HENRY PARKER,
Petitioner,
vs.
UNITED STATES OF AMERICA,
Respondent.

APPENDICES TO PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

APPENDIX A
Opinion of the Court below.
APPENDIX B
Indictment returned against Petitioner.
APPENDIX C
Portions of transcript of testimony presented during trial proceedings.
APPENDIX D
Colloquoy between Court and counsel regarding *in camera* proceedings.
APPENDIX E
Transcript of *in camera* proceedings.
APPENDIX F
Portions of transcripts of testimony presented during trial proceedings.
APPENDIX G
Portions of closing argument of federal prosecutor.
APPENDIX H
Impeaching and exculpatory material that came into the hands of Petitioner's attorney after Petitioner's trial.

APPENDIX A

(Panel Opinion of Court of Appeals)
(586 F.2d ~~482~~ 422, (5th Cir. 1978))

UNITED STATES of America, Plaintiff-Appellee,

v.

Paul Henry PARKER, Defendant-Appellant.

Nos. 76-4190, 77-2198.

United States Court of Appeals, Fifth Circuit.

Dec. 15, 1978.

Defendant was convicted in the United States District Court for the Middle District of Florida, at Orlando, John A. Reed, Jr., J., of conspiracy to violate federal firearms statutes and other offenses, and he appealed. The Court of Appeals, James C. Hill, Circuit Judge, held, inter alia, that the manner in which the trial court conducted an in camera review of materials allegedly subject to the attorney-client privilege, sought by defendant for impeachment purposes, was not inadequate.

Affirmed.

1. Witnesses ⇐223

Trial court did not commit abuse of discretion where, in conducting in camera hearing in connection with defendant's efforts to obtain attorneys' files for impeachment purposes, it engaged in in camera colloquy and allowed attorneys merely to relate contents of their files, rather than personally examining and inspecting such files to determine whether they were protected by attorney-client privilege. Fed.Rules Crim.Proc. rule 17, 18 U.S.C.A.

2. Explosives ⇐5

Evidence to support defendant's conviction of federal crimes in connection with bombings which took place in labor dispute was not insufficient under theory that Government's two major witnesses' testimony contained irreconcilable conflicts. 18 U.S.C.A. §§ 2, 371, 842, 844, 844(i); 26 U.S.C.A. (I.R.C.1954) §§ 5841, 5961, 5871.

3. Criminal Law ⇐150

Despite contention that applicable five-year statute of limitations had run before defendant was indicted for conspiracy, in that two leap years passed during interim, prosecution was timely where, although conspiracy began outside limitation period, conspiracy continued and overt acts were committed within such limitation period. 18 U.S.C.A. §§ 2, 371, 842, 844, 844(i), 3282; 26 U.S.C.A. (I.R.C.1954) §§ 5841, 5861, 5871.

4. Criminal Law ⇐577.12(1)

Delay between offense and indictment is of no moment under Sixth Amendment speedy trial right. U.S.C.A. Const. Amend. 6.

5. Criminal Law ⇐577.15(1)

Sixth Amendment right to speedy trial was not violated by five-month delay between defendant's indictment and trial. U.S.C.A.Const. Amend. 6.

6. Constitutional Law ⇐265

Defendant was not denied due process because of lapse of time between commission of offenses and his indictment where defendant failed to show that he was prejudiced by such delay and record negatived any suggestion that delay constituted tactical move by Government. U.S.C.A.Const. Amend. 5.

7. Constitutional Law ⇐265

In order to obtain relief under due process clause of Fifth Amendment for delay in prosecution, showing of prejudice by delay in bringing of charges is

Synopses, Syllabi and Key Number Classification
COPYRIGHT © 1978, by WEST PUBLISHING CO.

The Synopses, Syllabi and Key Number Classification constitute no part of the opinion of the court.

not enough without more, but reasons for delay must be examined to determine whether prosecution's actions violated fundamental concepts of justice or community's sense of fair play and decency. U.S.C.A.Const. Amend. 5.

8. Criminal Law ⇐1171.1(1)

Even if Government suppressed favorable evidence during defendant's prosecution for conspiring to use destructive devices to damage buildings and properties and other offenses, reversal was not required where defendant failed to establish materiality of such suppressed evidence. 18 U.S.C.A. §§ 2, 371, 842, 844, 844(i), 3500; 26 U.S.C.A. (I.R.C. 1954) §§ 5841, 5861, 5871; Fed.Rules Crim.Proc. rule 16, 18 U.S.C.A.

Appeals from the United States District Court for the Middle District of Florida.

Before TJOFLAT and HILL, Circuit Judges, and HIGGINBOTHAM,* District Judge.

JAMES C. HILL, Circuit Judge.

In these consolidated appeals from his conviction, No. 76–4190, and the order denying his Motion for New Trial, No. 77–2198, Appellant, Paul Henry Parker, claims several errors: (1) the inadequacy of the District Court's *in camera* review of materials subject to the attorney-client privilege which he sought for impeachment purposes; (2) insufficiency of credible evidence on which the jury could find guilt beyond a reasonable doubt; (3) the pretrial delay violated the statute of limitations and his right to a speedy trial; (4) the Government failed to comply adequately with his request for materials under *Brady v. Maryland*, 373 U.S. 83, 83 S.Ct. 1194, 10 L.Ed.2d 215 (1963). Also pending before us is Parker's motion to remand to the District Court and to direct an evidentiary hearing on the motion filed for new trial. We affirm Parker's judgment of conviction and dismiss his motion to remand.

I.

The procedural history of Parker's conviction and the underlying facts are not in dispute.[1] Viewed in the light most favorable to the Government, *see Glasser v. United States*, 360 U.S. 15, 62 S.Ct. 457, 86 L.Ed. 680 (1942), the evidence disclosed the following sequence of events.

Parker has been President and Business Manager of Teamsters Local Union No. 385 since it was chartered in 1968. The jurisdiction of the local union covers Orange and Lake Counties and surrounding areas in Florida. Under the bylaws of the union, the President is the head business agent and business manager whose duties are to run the local in accordance with the constitution and bylaws. Parker is in full charge of the local; as President he sets the salaries of the union business agents and secretary and has authority for their hiring and firing. He also negotiates the terms of contracts between the union and companies on behalf of the union.

The general procedure for unionizing a company was for the local union representatives to hold an election of the company's employees. If a majority of the employees should vote for unionization, representatives of the local union would call on the company's management and request the union be recognized as the union bargaining agent for the company's employees. If the company's management should refuse the union this recognition, the union would petition the National Labor Relations Board to hold an election of the company's employees. If the union should receive a majority of the votes, the National Labor Relations Board would certify the union as the bargaining agent for the company's employees.

For both Keystone Trucking Company located in Killarney, Orange County, Florida, and Overland Hauling Company, located in Ocoee, Orange County, Florida, Parker, as president and business manager of the union, had himself taken a lot of action to organize the employees of these companies. However, after the local union had been certified as the bargaining agent for these companies' employees, these two companies refused to meet with the representatives of the union. The union called an election of the employees of these companies, and upon secret written ballot two-thirds of the employees present voted to call a strike.

On February 25, 1971, after obtaining approval of the International Union, Parker, as president of the local union, called a strike against both Keystone Trucking Company and Overland Hauling Company. At this time, Parker established a picket line at the premises of each company and assigned a business agent to each stricken company to assure that each picket line was maintained and all the entrances were covered, to keep a record of the number of trucks crossing the line, and to serve as a general coordinator. After the picket lines were set up, he had discussions and meetings with the business agents and other strikers and instructed them concerning how the picket lines would be conducted.

At the time the strike was called on February 25, 1971, the local union office staff included Parker as president and business manager, Hermon Fulton Witt as business agent since 1969, Charles Newman Sharp as business agent, and Carl G. Crosslin as business agent and as the elected secretary/treasurer. The duties of a business agent are to carry out the assignments of the president and business manager pertaining to union contracts with companies and employees and companies' grievances. Anything other than very minor complaints must be processed at the direction of the president and business manager.

When the strikes were called on February 25, 1971, Parker assigned business agent Hermon Fulton Witt the responsibility of monitoring the picket line at the Keystone Trucking Company and business agent Charles N. Sharp responsibility of monitoring the picket line at Overland Hauling Company.

Witt, the business agent of the local union assigned to maintain the picket line at Keystone Trucking Company, and Charles William Bullard, a union member on the picket line at Keystone Trucking Company, both testified that shortly after the strike began Witt, Bullard and Parker had a conversation in the union hall during which Parker said that he wanted to "rain dynamite" on Keystone Trucking Company, Overland Hauling Company, that Jahna Sand Mine and some other companies. Parker told them that if the dredging machine at the sand mine was blown up, it would stop Keystone and Overland trucks hauling sand. Bullard told Parker that if Parker could get the dynamite, Bullard could create the shower.

Shortly after the strike was called, in a conversation in the union hall with Witt, Parker asked Witt if he knew any-

* District Judge of the Northern District of Texas, sitting by designation.

1. *See* Brief of Appellee at 2; Reply Brief of Appellant at 2.

thing about dynamite and Witt replied that he did not. When Parker asked if Witt knew anyone who was familiar with dynamite, Witt replied that his son Hermon Ronald Witt had been a demolition expert in the armed services. Parker requested Witt to ask his son if he was interested in doing some bombing. A day or so later, Witt informed Parker that Witt's son wanted to know if there would be any payment involved and Parker said there would not because Witt's son's affiliation with the union was enough of an incentive. Witt was then told by Parker to ask his son if he was willing to put together some bombs if Parker supplied him with the dynamite. When Witt reported back to Parker that his son would make the bombs, Parker told Witt that he knew where he could get the dynamite. Witt heard Parker make a telephone call from the union office to someone he referred to as Jack Forenzo concerning "contracts with tales on them," meaning dynamite fuse and caps, and Parker said that he would send someone down to pick up the "contracts." After the telephone conversation, Parker instructed Witt to travel to the Teamsters' local office in Miami, Florida, and gave him a manilla envelope containing currency to deliver. Witt left the next morning, and at the Miami office gave the envelope to a person identifying himself as Jack Forenzo. This person then directed Witt to a restaurant, where Witt rendezvoused with two men and a cardboard box was transferred from their automobile to Witt's automobile. Upon returning to Orlando, Witt carried the box into the union hall and placed it on Parker's desk. At this time Witt observed that it contained dynamite, caps, and fuse. Parker referred to the contents of the box as dynamite and told Witt to remove it from the office. Witt took the box and its contents to his garage at his home in Casselberry, Florida.

Curtis Leroy Love met Witt on the Keystone Trucking Company picket line, sometime before the bombing of Jahna Sand Mine. At that time, Witt mentioned to him that Witt desired to have some bombings perpetrated in order to coerce a truck company to sign union contracts. Love told Witt he would think about it and let him know at a later date.

Business agent Witt testified that, sometime after taking the dynamite to his home, he had his son fashion some bombs and instructed his son to deliver all but three of the bombs to Bullard at the Keystone Trucking Company leaving the remaining three bombs at Witt's house. Witt testified that later he took the three bombs to the union office and showed them to Parker and others. Witt first stored them in his office desk drawer and later in the ceiling of the union hall.

Bullard and Johnny Mack Brown, a picketer at the Keystone Trucking Company, both testified that on a night early in March of 1971, out on the strike line at Keystone Trucking Company, Bullard received some bombs from Witt's son; that Bullard and Brown had a conversation about bombing the Jahna Sand Mine; and that Bullard and Johnny Mack Brown stored the bombs in Brown's house trailer.

On March 9, 1971, a dynamite bomb was exploded under a boat trailer on the premises of the Keystone Trucking Company. Bullard and Johnny Mack Brown testified that they travelled in Brown's car to the Keystone Trucking Company premises and exploded a five-stick dynamite bomb which they had received a few days before at the picket line at that company.

Witt further testified that sometime before the Municipal Justice Building was bombed on March 19, 1971, a need arose for additional dynamite and that Parker asked him to ask Bullard if he could acquire some more dynamite. When Witt asked Bullard, Bullard told him that he had a cousin in South Carolina who had access to dynamite. Witt was unable to recall the date but testified that he later accepted a collect call at the local union office from Bullard who stated that he had acquired the dynamite but needed fifty dollars to cover the cost and expenses of returning to Orlando. He asked Witt to wire fifty dollars to Bullard's cousin in Cheraw, South Carolina. At Witt's direction, Carl Crosslin, secretary/treasurer of the union, wired the fifty dollars to Bullard's cousin. Witt further related that the next morning Bullard delivered to him in Orlando two cases of dynamite, a full box of blasting caps, and a short piece of fuse. Witt had informed Parker beforehand of Bullard's trip to South Carolina and he advised Parker of the dynamite's arrival.

Bullard's testimony corroborated Witt's account. Bullard testified that after the March 9th bombing of the Keystone Trucking Company, sometime during the middle of the month, Witt asked him to get some dynamite. He and Johnny Mack Brown and Brown's wife went in Brown's car from Orlando to Cheraw, South Carolina, where Bullard's cousin purchased for him at a hardware store two cases of dynamite, two boxes of caps, and about ten feet of fuse. Once in Cheraw, they did not have enough money to pay Bullard's cousin for the dynamite and get back to Orlando so he telephoned Parker and, in Parker's absence, spoke with Witt who wired the money to his cousin. Bullard and Brown and Brown's wife then returned in Brown's car with the dynamite to Orlando where Bullard delivered the dynamite to Witt.

Witt also testified that after he received the dynamite from Bullard, he told Parker that they did not have the necessary fusing and Parker told him to contact David F. Wingate, business manager of the local labor union, about obtaining some. Witt contacted Wingate and arranged a meeting at which time Wingate gave him approximately one-half a reel of fuse. Witt was unable to recollect the specific date on which this meeting occurred except that he believed it happened in a three-day period before the bombing of the Municipal Justice Building on March 19, 1971.

On April 4, 1971, bombs were exploded on the premises of the Keystone Trucking Company, Killarney, Orange County, Florida, causing some damage to the pavement and a few trucks. Curtis Leroy Love, a picketer at both the Keystone Trucking Company and the Overland Hauling Company picket lines, travelled from his home with Brown and Bullard in Brown's car to the Keystone Trucking Company. Once there, Love and Bullard got out of the car and each threw a lighted dynamite bomb over the fence and under two trucks. The two then got back into the car with Brown and left. After this bombing of the Keystone Trucking Company, Parker indicated to Witt that he was dissatisfied with the bombing because so little damage was done.

Early in April, Parker told Witt to go to the Ramada Inn in Orlando to meet a man and to take with him the bombs which Witt and his son had prepared for Bullard and Brown. Witt met a man named Jim at the Ramada Inn and went to his room with the dynamite, fuse and

caps. Bullard and Brown arrived later and received the bombs from Witt. On April 16, 1971, the building housing the terminal office of the Overland Hauling Company, Ocoee, Orange County, Florida, was severely damaged by bomb explosions.

Witt testified that during a conversation he and Parker decided that the fuel tanks at Overland Hauling Company should be bombed. At Parker's request, Witt contacted Curtis Leroy Love about bombing the fuel tanks and Love agreed to do it.

Love himself testified that Witt asked him to bomb the Overland Hauling Company among other places; that on the night of April 16, 1971, he took a bomb and, with Alto Oglesby driving, went to the Overland Hauling Company; that he stepped out of the car and threw the bomb on top of the office building; that he got back in the car and they drove down the highway; and that the Federal agents stopped them and arrested them before they could escape.

A Bureau of Alcohol, Tobacco and Firearms Special Agent related his version of what occurred that evening. The ATF agent and several officers were at an observation post across the street from the building of the Overland Hauling Company. At approximately 10:30 p. m. a car drove by the building, turned around, and returned and pulled into the parking lot where a person got out of the car and threw a sparking package upon the roof of the building. The person got back in the car and the car drove off. The ATF agent radioed other law enforcement cars in the area not to let the car get away. The car was stopped after it had travelled approximately two-tenths of a mile. Curtis Leroy Love and Alto Oglesby were arrested as the occupants of the car.

Substantial evidence established that the business of Jahna Industries, Inc., Lake County, Florida, and Keystone Trucking Company and Overland Hauling Company, both in Orange County, Florida, included activities affecting interstate commerce. Neither Parker nor any of the coconspirators or accomplices involved in the alleged violations were entered in the National Firearms Registration and Transfer Records to have made application to lawfully transfer or make, or to be lawfully registered to possess, any firearms, destructive devices, or dynamite bombs. *See* 26 U.S.C.A. §§ 5851–5862. Neither Parker nor any of the coconspirators nor any of the accomplices involved in the alleged violations had made application for or been issued a permit or license to import, manufacture or deal in explosive materials or to transport, ship, or receive explosive materials in interstate commerce. *See* 18 U.S.C.A. §§ 841–848.

Parker and two other persons were indicted a matter of a few hours before the applicable statute of limitations ran.[2] Count one of the indictment charged that Parker aided and abetted unnamed others in damaging a building located at the Overland Hauling Company. *See* 18 U.S.C.A. §§ 2 and 844(i). Count two of the indictment charged that Parker aided and abetted others to knowingly possess an unregistered destructive device. *See* 18 U.S.C.A. § 2; 26 U.S.C.A. §§ 5841, 5861, 5871. Count three essentially charged Parker and his two co-defendants[3] with entering into an unlawful conspiracy to transfer, possess and use destructive devices to damage buildings and properties. *See* 18 U.S.C.A. §§ 371, 842, 844; 26 U.S.C.A. § 5861. The alleged overt acts commenced February 25, 1971, and continued until April 16, 1971. All these illegal activities were alleged to have been undertaken in furtherance of a union organizing campaign. The jury returned its verdict of guilty on all three counts and a judgment conforming with the verdict was entered. Parker was sentenced to ten years imprisonment on count one, ten years imprisonment on count two, and five years imprisonment on count three, all sentences to run concurrently.

2. Parker also asserts that the limitation of the statute had been reached. We disagree. Part IV. A., *infra*.

II.

[1] During cross-examination of Witt, the government's first witness, the attorney for one of Parker's co-defendants advised the District Court that he had under *subpoena duces tecum* two attorneys who had represented Witt, calling for them to produce their office files, correspondence, and memoranda concerning their dealings with Witt and Bullard which would attach to their credibility as government witnesses. The two attorneys were present, but refused to produce the materials for defense inspection under a claim of attorney-client privilege.[4] Pursuant to defense counsel's request, the district court ordered Witt's two former lawyers to make an *in camera* presentation of the general nature of their attorney-client relationships and the general contents of their files.

The district judge spent two hours with the two attorneys reviewing their files *in camera*. Afterwards, the district judge made his findings in open court. He explained that he received the files regarding their dealings with Witt and Bullard without swearing the attorneys since they were officers of the court. With respect to the first attorney's files, the district judge stated that he went through it as carefully as he could and culled out three documents: Bullard's sworn statement of July 22, 1975, Bullard's letter to his attorney on February 19, 1975, and Bullard's affidavit of September 11, 1975. Since Bullard authorized his attorney to reveal these materials, the district judge found the attorney-client privilege waived with respect to these three documents.[5] Three other letters from Witt to the first attorney were culled from the attorney's files but were found to be privileged and were not provided to the defense, though they were marked as the court's exhibits and sealed in the record for appellate review. Most significantly, the district judge found that the substance of these latter three exhibits was contained in the first three which were turned over to the defense. With respect to the second attorney, the district judge found from their discussion that no evidence contained in his files, either within or without the privilege, could be helpful to the defense. The district judge found that this second attorney had an attorney-client privilege with both Witt and Bullard limited to his

3. Ashley B. Burch, Jr., a union member and David W. Wingate, president of the Laborers' local union are not involved in the appeals here considered.

4. Parker's attorney joined in the request.

5. Alternatively, the district judge concluded that these documents contained material which could be used to impeach Witt's testimony and Bullard's anticipated testimony which were communications made by the client to his attorney during or before the commission of a crime or fraud and therefore outside the privilege.

representation in efforts to obtain grants of immunity for them and declined to enforce the subpoena. The defense attorneys were advised, however, that they could call the second attorney to the stand and the district judge would rule on specific claims of the privilege. These rulings were accepted by the defense attorneys without objection.

On appeal, Parker contends that a careful reading of the *in camera* hearing transcript discloses that the district court did not personally examine and inspect the files of the two attorneys but merely engaged in an *in camera* colloquy allowing the two attorneys merely to relate the contents of their files. Even accepting this scenario, we cannot conclude that the district judge committed reversible error.[6]

We agree with Parker, that a better procedure is possible to avoid placing a defendant in the dilemma of not knowing what documents were produced but not ordered delivered to defense counsel. First, each document produced could have been identified on the record for purposes of review. Second, the district judge could have personally examined and ruled on each document, on the record.[7] Absent the custodian's improper withholding of materials, this would preclude the omission of possibly exculpatory material because of simple ignorance of its existence. Finally, the district court could have detailed the methods used in examining the documents and his findings to all counsel. However, that the district court could have done more does not require us to set aside Parker's conviction. The district court here was satisfied with the procedure used. We cannot say that the district court abused the substantial discretion afforded under Fed.R.Crim.P. 17 to oversee the subpoena process. *See generally* 8 Moore's Federal Practice §§ 17.01–11; 1 Wright's Federal Practice and Procedure §§ 271–79.[8] Therefore, we are satisfied with the procedure followed.

III.

[2] Parker also seeks a reversal on the grounds that the Government's two major witnesses, Witt and Bullard, had perjured themselves on numerous occasions and their testimony contains irreconcilable conflicts. More specifically, he urges that the evidence against Parker was insufficient as a matter of law, first, because the jury could only believe Witt's testimony as corroborated by Bullard who had earlier perjured himself and, second, because the Government improperly depended on the jury's knowledge that both Witt and Bullard had been convicted of these same bombings and were serving lengthy sentences at the time they testified.

Parker cites numerous instances of prior inconsistent statements to support his argument. The jury heard all the impeaching testimony and saw the numerous impeaching documents. In addition, the jury heard explanations of the

6. The *in camera* hearing transcript could also be read to suggest that the district judge went through the files with the attorneys. Given our acceptance of the defense scenario, there is no need to remand for further proceedings to determine what actually took place, as Parker alternatively suggests.

7. *See* note 6, *supra*.

8. Given the voluminous impeaching evidence marshalled against Witt and Bullard, it would be difficult to imagine that the District Court's *in camera* procedure was error so harmful as to require reversal. However, since we conclude that the district court did not commit an abuse of discretion, there is no error to characterize as either harmless or harmful. Fed.R.Crim.P. 52.

prior inconsistent statements by the witnesses. Here the proof of the existence of a conspiracy rests on a framework of proven and uncontested facts; the coconspirators themselves admitted committing the bombings in furtherance of their illicit agreement. Even a cursory study of this record demonstrates substantial evidence of a guilty nexus between Parker and the conspiracy. *See generally, e. g., United States v. Evans*, 572 F.2d 455, 469 (5th Cir. 1978). Notwithstanding the alleged unreliability of the Government's key witnesses, the jury was the proper arbiter of the witnesses' credibility. *See, e. g., United States v. Anderson*, 574 F.2d 1347 (5th Cir. 1978); *United States v. Cravero*, 530 F.2d 666 (5th Cir. 1976).

Parker's reliance on *United States v. Fleetwood*, 528 F.2d 528 (5th Cir. 1976), is misplaced. He contends that the Government improperly brought to the jury's attention that both Witt and Bullard had been convicted of a felony and had been granted immunity to testify and had some personal advantage or vindication to accomplish. Given our reading of the record testimony and instructions, we believe that the Government was merely attempting to disclose adverse facts relevant to the witnesses' credibility in anticipation of damaging cross-examination and defense argument. Such a tact is permissible. *See United States v. Fleetwood*, 528 F.2d at 533; *United States v. Harrell*, 436 F.2d 606 (5th Cir. 1970); *United States v. Aronson*, 319 F.2d 48 (2d Cir.), *cert. denied*, 375 U.S. 920, 84 S.Ct. 264, 11 L.Ed.2d 164 (1963).

9. The bombing at the Overland Hauling Company occurred at approximately 10:30 p. m.

10. 18 U.S.C.A. § 3282 provides:

> Except as otherwise expressly provided by law, no person shall be prosecuted, tried, or punished for any offense, not capital, unless the indictment is found or the information is instituted within five years next after such offense shall have been committed.

IV.

Parker contends that this case was not brought in a timely manner and that the prosecution should be barred for three reasons: (1) the applicable statute of limitations had run; (2) the delay from the commission of the offense to the indictment and trial denied him his constitutional right to a speedy trial guaranteed under the Sixth Amendment; (3) the delay from the commission of the offense to the indictment and trial denied him his constitutional right to a fair trial guaranteed under the Due Process Clause of the Fifth Amendment. Though we are not persuaded by these contentions, we address each in turn.

A.

[3] Parker's contention that the applicable statute of limitations had run before he was indicted is based on the novel notion that two leap years, providing two extra days to be measured against the limit, had passed during the interim. The indictment alleged two substantive offenses based on the bombings of the Overland Hauling Company on April 16, 1971, and one conspiracy offense, participating in a conspiracy which began on February 25, 1971, and continued through the April 16, 1971, bombing of the Overland Hauling Company.[9] The indictment was returned by the Federal Grand Jury on April 15, 1976.

We are satisfied that the relevant five year statute of limitations was met.[10] *Cf. United States v. Brasco*, 516 F.2d

816, 818 (2d Cir. 1975) (Without specifically addressing the issue, intervening leap year was deemed not critical). The two substantive offenses were based on the April 16, 1971, bombing which occurred within five years of the filing of the indictment. Though the conspiracy began outside the limitation period, the conspiracy continued and overt acts were committed within the limitation period. This is sufficient. *Grunewald v. United States*, 353 U.S. 391, 77 S.Ct. 963, 1 L.Ed.2d 931 (1957); *United States v. Ashdown*, 509 F.2d 793, 798 (5th Cir. 1975).

B.

Parker also argues that he has been denied his constitutional right to a speedy trial under the Sixth Amendment, by the delay from the commission of the offenses on April 16, 1971, to the date the indictment was returned, April 15, 1976, and the date his trial began, September 13, 1976. We cannot agree.

[4] The Sixth Amendment right to a speedy trial does not limit the time within which an initial charging paper must be filed against an unarrested subject, but it does limit, to some extent, preindictment delay once a defendant has been arrested. *United States v. Marion*, 404 U.S. 307, 92 S.Ct. 455, 30 L.Ed.2d 468 (1971); *United States v. Shaw*, 555 F.2d 1295 (5th Cir. 1977); *United States v. Avalos*, 541 F.2d 1100 (5th Cir. 1976). Thus, the delay between the offense and the indictment is of no moment under the Sixth Amendment Speedy Trial Right.

[5] However, the Sixth Amendment right to a speedy trial does impose some limit on the delay between bringing charges against an accused and beginning the trial. In applying the Sixth Amendment right to a speedy trial to the period from arrest/indictment to trial, the four factors to be considered are: (1) the length of delay; (2) the reason for the delay; (3) the defendant's assertion of his right; and (4) prejudice to the defendant. *United States v. Avalos*, 541 F.2d at 1110. "The length of the delay serves in part merely as a 'triggering mechanism.' . . . [T]he threshold question is whether this delay requires further consideration of the speedy trial claim." *Id.* at 1110–11 (citations omitted). *United States v. Wentland*, 582 F.2d 1022 (5th Cir. 1978) and cases cited. In this case, the five-month delay between Parker's indictment and his trial was not unreasonable, and it does not require further consideration of the speedy trial claim. The reasonableness of the delay is emphasized by the fact that the trial was scheduled for July 6, 1976, but Parker substituted counsel prior to the trial date and, on oral application of counsel for Parker and the United States Attorney, the trial date was rescheduled to September 13, 1976. Parker never sought an earlier trial nor has he shown any prejudice resulting from the five-month period between indictment and trial. Thus, there is no merit to his claim of denial of the Sixth Amendment right to a speedy trial.

C.

[6] Parker's claim of a denial of Due Process under the Fifth Amendment resulting from the lapse of time between the commission of the offenses and his indictment is also subject to well-recognized principles of law which require our rejection of his argument.

[7] In *United States v. Shaw*, 555 F.2d 1295 (5th Cir. 1977), this Court explained that the statute of limitations normally provides the primary protection

against overly stale criminal charges. The sole constitutional limit on the delay between the commission of an offense and the initial accusation regarding the offense is the Due Process Clause of the Fifth Amendment. In order to obtain relief under the Due Process Clause of the Fifth Amendment, a showing of prejudice by the delay in the bringing of the charges is not enough without more. The reasons for the delay must be examined to determine whether the prosecution's actions violated "fundamental conceptions of justice" or "the community's sense of fair play and decency." *Id.* at 1299; *United States v. Avalos*, 541 F.2d at 1107.

Here again we note that the offenses were alleged to have been committed on April 16, 1971, and the indictment was returned on April 15, 1976. During the interim between the crimes and Parker's indictment, two of Parker's alleged coconspirators, Witt and Bullard, were indicted in July of 1972 and convicted at a joint trial in April of 1973 for their participation in the various bombings. Their testimony goes a long way in explaining the delay in seeking an indictment against Parker.

Witt testified at Parker's trial that he did not take the stand at his own trial. On appeal of his conviction, in various motions for release under 28 U.S.C.A. § 2255, in motions for reduction of sentence, in letters to his wife, in letters to the sentencing judge, in applications to the parole board, in statements to parole officers and others, not only did he not implicate Parker in the offenses, but he completely denied his own participation. He told the jury at Parker's trial that in the last part of June 1975, after his last petition for relief in the form of a motion for reduction of sentence and letter requests to the sentencing judge had been denied, he decided to "tell the truth." After he was granted immunity, he appeared before the Federal Grand Jury in Orlando, Florida in November of 1975 and gave testimony substantially as he testified at Parker's trial, implicating himself, Bullard, and Parker in the offenses.

During the course of Parker's trial, Bullard testified that at his own trial he lied when he denied his participation in the offenses and any knowledge of any participation of Witt or Parker. On appeal of his conviction, in motions for release under 28 U.S.C.A. § 2255, in motions for reduction of sentence, in letters to attorneys and others, in applications to the parole board, in statements to parole officers and on other occasions, he maintained his false denial of his participation in the offenses, and denied any knowledge of the participation of Witt and Parker. Bullard was granted immunity, and testified before the Grand Jury in November of 1975, but again did not implicate Parker. His application for parole was turned down by the parole board in February of 1976, when he was given a three-year set-off until his next parole hearing in 1979. He testified at Parker's trial that after this he decided to tell the truth and contacted the agents about again testifying before the Grand Jury. On April 15, 1976, he again testified before the Grand Jury and finally disclosed Parker's involvement.

On the basis of the testimony of these and other witnesses at Parker's trial, we conclude that he has not satisfied either of the two requirements to support a claim of denial of Due Process under the Fifth Amendment. First, Parker has failed to show that he was prejudiced by the delay between the commission of the offense and the indictment. Apart from Parker's implication in the offenses, the

evidence was clear that a conspiracy existed furthered by overt acts as alleged. While the testimonies of witnesses were vague in some instances as to specific times and minor details, their testimonies were positive as to acts committed by Parker while participating in the conspiracy. Secondly, Parker has failed to satisfy the second requirement of the due process test. The record negatives any suggestion that delay between the criminal acts charged and the indictment was some sort of tactical move by the Government. It was not until Government witness Witt testified before the Grand Jury in November of 1975, that the Government had a witness to testify to Parker's participation in the offenses. However, at that point the Government had no corroboration of the testimony of Witt implicating Parker, since Bullard then was still denying Parker's involvement. It was not until April of 1976, when Bullard appeared before the Grand Jury and testified about Parker's participation that the Government had corroborating testimony to that of Witt implicating Parker. These circumstances clearly negative any claim of delay on the part of the prosecutor being a tactical move by the Government.

The Government's delay in seeking an indictment against Parker did not contravene his Due Process right. *United States v. Lovasco*, 431 U.S. 783, 97 S.Ct. 2044, 52 L.Ed.2d 752 (1977); *United States v. Shaw*, 555 F.2d 1295 (5th Cir. 1977); *United States v. Avalos*, 541 F.2d 1100 (5th Cir. 1976).

V.

[8] Parker, through new counsel replacing trial counsel, filed a Motion for New Trial on April 17, 1977, in which he alleged that the attorney for the Government failed or neglected to provide to his trial attorney tape recordings and transcripts of interviews between witnesses and Government agents. The hearing on the Motion was heard by the trial judge who issued an order denying the Motion for New Trial. Parker here appeals from that order in No. 77–2198. We affirm the denial of the Motion which the district court considered.[11]

At the hearing on the motion for a new trial, Parker introduced four exhibits which he claimed constituted the evidence withheld by the Government. A review of each exhibit along with the trial testimony is necessary to frame this issue properly.

Defense Exhibit 1 was a red and black box bearing notations "Interview 12–14–71, Bud and Patsy Love, Roman Numeral III," containing a tape. An ATF special agent identified this tape as a recording of an interview in his presence between another special agent, who had worked in the Witt and Bullard trial, and Curtis Leroy Love and his wife, Ruth Love, in the Orange County Jail on December 14, 1971, just prior to the Witt and Bullard trial. Exhibit B of Parker's motion for a new trial was a transcript of a portion of this tape, which was played at the motion hearing. The relevant portion of the recording of the Government's December 14, 1971, interview with the Loves is set forth in the transcript for the hearing on the motion.[12] Curtis Leroy Love was questioned as follows:

11. This affirmance is not to be confused with the explicit withholding of our consideration of Parker's Motion for New Trial Based Upon Newly Discovered Evidence filed in June of 1978. *See* discussion *infra*.

12. The Court Reporter's transcript of the tape as quoted here is not identical to Parker's transcript which was attached to his Motion for New Trial. However, the substance of Curtis Leroy Love's statements in both is alike.

> Did he [Parker] know anything, did he know Overland was going to get hit?
>
> Not to my knowledge he didn't. Now I couldn't say for sure. I don't know. I don't know much about anything.
>
> Excuse me. As far as you know you say Paul Parker, you don't think knew anything about any of this?
>
> I really don't think he did, not to my knowledge he didn't. He never mentioned nothing to me about it or anything else, not to my mind.
>
> Never got any indication at all of anything that he may have said or the way he acted or anything that he knew? How about Charlie Sharp?
>
> Not as I know of.

Defense Exhibit 2 consists of a red and black box, bearing notations "Interview of Patsy Love, 12–16–71, Roman Numeral I," containing a tape recording. This tape was not played at the hearing.

Defense Exhibit 3 was a tape, bearing notations "11–17–71, Love and Oglesby, Orange County Jail." An ATF special agent identified this as a tape bearing notations in his handwriting. This tape was accepted by the parties as being inaudible.

Defense Exhibit 4 was a tape, bearing notations "*U. S. v. Witt*, 2–6–73, at two o'clock with Charles Ballard." An ATF special agent testified that he did not recognize whose handwriting the notations were in; that he did not know anything about it; and that he did not think he had ever seen the tape before. This tape was accepted by the parties as being inaudible, as well.

13. This attorney also assisted and worked with the defense attorney in the civil suit brought by Overland Hauling Company against the union, Parker, Witt, Love and Oglesby. That same defense attorney filed the briefs here. Though the two attorneys generally discussed Parker's defense, the tapes were not discussed.

The attorney who had represented Witt at his trial in 1973 and until June of 1975, and who had represented Bullard on appeal and until November of 1975, testified that the four tapes were from his files.[13] He further testified that after the sentencing of Parker they were made available to Parker's trial attorney. He had forgotten about the tapes until after Parker's criminal trial but, when Parker's attorney had advised him of Love's rebuttal testimony, he remembered the tapes.

Defense Exhibits 1 and 2 had been furnished to this attorney for Witt and Bullard by the Government in pretrial discovery in advance of the Witt trial in 1973 in response to requests for *Jencks*[14] and *Brady*[15] materials. He had been furnished Defense Exhibits 3 and 4 by the prosecutor in the Witt and Bullard trials, following a discussion with regard to *Jencks* and *Brady* material prior to their trial. When received, Defense Exhibits 3 and 4 were inaudible. He testified that he had used the Defense Exhibit 1 and a transcript to attempt to impeach Government witness Curtis Leroy Love, on the basis of Government promises, and the transcript of the Witt and Bullard trial referred to this part of the tape. The only portion of the tape of the interview that he could recall as being of an exculpatory nature as to Parker was in the portion of the tape played at the motion hearing quoted above. The type of exculpatory statement that he remembers Ruth Love

14. 18 U.S.C.A. § 3500.

15. *Brady v. Maryland*, 375 U.S. 83, 83 S.Ct. 1194, 10 L.Ed.2d 215 (1963).

making in the tapes was that she did not believe that Parker was involved. Finally, he admitted that, in response to the defense *subpoena duces tecum* to produce his files for defense counsel inspection at the Parker's trial, he did not specifically reveal the fact of his possession of any tapes to the trial judge at the *in camera* inspection of his files. His explanation was that he did not have an independent recollection of any statements on the tapes about Parker, since the last time he had heard the tapes was during the Witt trial.

Parker's trial attorney testified at the motion hearing that prior to his replacing the attorney who handled the case pretrial, in June of 1976, the pretrial attorney had filed a Motion for Discovery and Inspection dated May 7, 1976, that requested any *Brady* or any *Jencks* material, anything exculpatory for the Defendant. Parker's trial attorney further testified that there was an agreement between him and the Government that *Jencks* and *Brady* material would be made available to the defense, an agreement with which he believed the Government complied. Before and during Parker's trial, he did not receive any tapes or transcripts of Government interviews with Curtis Leroy Love or Ruth Love. After Parker's trial and sentencing, he learned about the tapes from the attorney for Witt and Bullard; he himself had never heard the tapes. Parker's trial attorney admitted that the Government had advised him of a willingness to pursue discovery under Fed.R.Crim.P. 16, but, after the magistrate ordered reciprocal discovery, he declined. He also admitted that he was made aware by the prosecutor that he was not going to be supplied any documents or transcripts readily available from reviewing the public records of the prior two related trials. He also admitted being advised by the prosecutor's letter of August 30, 1976, as follows:

> Please be advised that numerous witnesses who appeared in the cases of *U.S.A. v. Love and Oglesby,* No. 71–33–Orl–Cr and *U.S.A. v. Witt and Bullard,* No. 72–68–Orl–Cr, may appear in the above-captioned case. For your information, Mr. Parker and Mr. Burch testified in the case of *Witt and Bullard.*
>
> It is my understanding that the Clerk of the Court has copies of the transcripts of those earlier trials. The Government is therefore not intending to supply copies of the transcripts presently in the Clerk's possession but is simply advising you of their existence. If you desire copies of same, you may act at your own discretion.

He further acknowledged that he was aware of the prior two related trials and had examined records of some of the trials, but he insisted that he was not aware of the existence of any tapes. He also admitted that he never made any representations to the Government that he was unable to obtain transcripts of Witt's trial.

The Assistant United States Attorney who handled Parker's prosecution also answered questions at the motion hearing. He stated to the Court that, when he replaced the Assistant United States Attorney who had successfully prosecuted Witt and Bullard, it also became his responsibility to handle the appeal in Witt's case. In doing so, he read the entire transcript of Witt's trial and he became aware of the tape of Love's statement, since it was referred to in approximately 30 pages of the transcript of the Witt trial because Love played such a key role in the bombings. He never heard the Love tape, until it was

played at the motion hearing. He did not consider it was relevant to listen to the tapes in preparation for Parker's trial, since Love's statements were simply that Witt told Love to do the bombings. He also reviewed the testimony of Ruth Love in the transcript of the Witt trial where she made the statement to the effect that she did not think Parker was involved. The Assistant United States Attorney who handled Parker's prosecution also acknowledged to the District Court that he had not provided Parker's attorney with the tapes or any transcripts. His position was that, on the basis of the prosecutor's letter of August 20, 1976, notifying the defense that the Government was not going to produce any of the public records that could be ascertained from review of the two prior trials, he was not obliged to do so, since Parker's attorney made no request of the Government for any tapes even though the tapes were clearly referred to in the Witt trial.

Looking at the posture of the Government's evidence against Parker in the context of the total record, there was evidence, apart from any testimony of Love, establishing the existence of a conspiracy to commit the charged offenses between Witt, Bullard, Love, Brown, Oglesby, and others. Only the testimonies of Witt and Bullard directly implicated Parker as a coconspirator. Love, testifying as a witness in the Government's case-in-chief, admitted his participation in the bombings and that his participation had been under the direction of Witt in association with accomplices Bullard, Brown and Oglesby. In his direct testimony, Love did not testify that Parker directed his actions, or that he discussed the bombings at the time with Parker, or even that Parker had any knowledge of the bombings. In his defense, Parker testified, disclaiming any wrongdoing or any awareness of others' wrongdoing, and, on cross-examination he said that he talked with Love before Love's trial but never cautioned Love about "keeping his mouth shut." In the Government's rebuttal, Love testified to the contrary concerning instructions from Parker prior to Love's trial. On rebuttal, Love testified that after he was arrested for his part in the bombings, Parker told him to keep his "mouth shut" and his "bowels open." He said that Parker never talked to him like that before.

Recently, this Court had occasion to consider the doctrine of *Brady v. Maryland,* 375 U.S. 83, 83 S.Ct. 1194, 10 L.Ed.2d 215 (1963), in light of the Supreme Court's most recent consideration of the area in *United States v. Agurs,* 427 U.S. 97, 96 S.Ct. 2392, 49 L.Ed.2d 342 (1975). In *United States v. Anderson,* 574 F.2d 1347 (5th Cir. 1978), this Court carefully set out the proper analysis for considering various types of defense claims under *Brady,* and we need not repeat that analysis here. Assuming only for the sake of our analysis, as the court did in *Anderson,* that the Government suppressed favorable evidence, Parker has not established the materiality of the suppressed evidence.

Here, there was no specific defense request for the tapes.

> When there has been no specific defense request, the failure to disclose information violates due process only "if the omitted evidence creates a reasonable doubt that did not otherwise exist. *Agurs v. United States, supra,* 427 U.S. at 112, 96 S.Ct. at 2401; *Cannon v. Alabama, supra* [558 F.2d 1211 (5th Cir. 1977)]. The Supreme Court has explained:

> This means that the omission must be evaluated in the context of the entire record. If there is no reasonable doubt about guilt whether or not the additional evidence is considered, there is no justification for a new trial. On the other hand, if the verdict is already of questionable validity, additional evidence of relatively minor importance might be sufficient to create a reasonable doubt. *United States v. Agurs, supra*, 427 U.S. at 112–13, 96 S.Ct. at 2402 [(]note omitted).

United States v. Anderson, 574 F.2d at 1354–55. Here, the tapes arguably could be used to impeach Love.

> In *Garrison v. Maggio*, 540 F.2d 1271 (5th Cir. 1976), this Court held that before a new trial must be granted because of the prosecutor's failure to disclose purely impeaching evidence not concerning a substantive issue, in the absence of a specific defense request, a defendant must demonstrate that the undisclosed evidence probably would have resulted in an acquittal.

United States v. Anderson, 574 F.2d at 1354. We have carefully studied the entire record and the parties' arguments. We cannot conclude that either of these two tests for materiality are satisfied here. Therefore, we do not accept Parker's *Brady* argument. *See generally United States v. Anderson*, 574 F.2d 1347 (5th Cir. 1978) and cases cited.

VI.

Finally, we must consider Parker's "Motion to Remand Proceedings to Trial Court and to Direct an Evidentiary Hearing on the Motion Filed for New Trial and to Continue Oral Argument." The motion to continue oral argument was denied. The motion to remand for an evidentiary hearing on the *second* Motion for New Trial was carried with the case. This second motion for new trial, filed in June of 1978 contains issues separate from, though somewhat related to the *first* motion for new trial which was filed in April of 1977, the denial of which Parker appeals here in No. 77–2198. The District Court did not require our remand to *consider* the motion. Recently, this Court explained the appropriate procedure in *United States v. Fuentes-Lozano*, 580 F.2d 724 (5th Cir. 1978):

> A motion for a new trial may be presented directly to the district court while the appeal is pending; that court may not grant the motion but may deny it, or it may advise us that it would be disposed to grant the motion if the case were remanded. Alternatively, as here, to avoid delay, the appellant may seek a remand for the purpose of permitting the district court fully to entertain the motion.

The District Court followed this procedure. During the pendency of the appeals in Nos. 76–4190 & 77–2198, Parker filed a "Motion to Consolidate" these appeals with his appeal from the District Court's denial of the *second* motion for new trial, No. 78–3296. On November 3, 1978, the motion to consolidate was denied. Therefore, the Motion to Remand which was carried with these appeals is DISMISSED.

AFFIRMED.

Adm. Office, U.S. Courts—West Publishing Company, Saint Paul, Minn.

APPENDIX B

(Indictment)

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

No. 76-62, Orl-Cr-Y
[18 USC 2, 371, 842, 842(a)(3)(A), 844, 844(i);
26 USC 5861, 5861(d), 5861(e), 5871]

UNITED STATES OF AMERICA

v.

PAUL HENRY PARKER
DAVID W. WINGATE
ASHLEY B. BURCH, JR.

The Grand Jury charges:

COUNT ONE

That on or about April 16, 1971 at Ocoee, Orange County, Florida, in the Middle District of Florida,

PAUL HENRY PARKER

did aid, abet, counsel, command, induce and procure others herein not named to maliciously damage, by means of an explosive, a building used in an activity affecting interstate commerce, that is, a building located on the premises of the Overland Hauling Company, Ocoee, Florida, and used by said company in conducting its business; in violation of Title 18, United States Code, Section 844(i) and 2.

COUNT TWO

That on or about April 16, 1971 at Ocoee, Orange County, Florida, in the Middle District of Florida,

PAUL HENRY PARKER

did aid, abet, counsel, command, induce and procure others to knowingly possess a firearm, to wit, a destructive device, which

had not been registered in the National Firearms Registration and Transfer Record as required by Title 26, United States Code, Section 5841, said possession being in violation of Title 26, United States Code, Sections 5861(d) and 5871 and Title 18, United States Code, Section 2.

COUNT THREE

That from on or about February 25, 1971 and continuously thereafter, up to and continuing through April 16, 1971 in the Middle District of Florida, and elsewhere,

PAUL HENRY PARKER
DAVID W. WINGATE
and ASHLEY B. BURCH, JR.

did wilfully and unlawfully conspire, combine, confederate, cooperate and agree together and with each other, and with other persons to commit certain offenses against the laws of the United States of America pertaining to the illicit, unlawful, and malicious manufacture, transportation, transfer, possession and use of destructive devices and explosives, more particularly, Title 18, United States Code, Sections 842 and 844 and Title 26, United States Code, Section 5861, namely:

(a) To unlawfully receive and possess firearms, to wit, destructive devices, which were not registered in the National Firearms Registration and Transfer Record; in violation of Title 26, United States Code, Section 5861(d).

(b) To unlawfully transport, ship and cause to be transported and shipped in interstate commerce explosive materials without being a licensee or permittee under the provisions of Chapter 40, Title 18, United States Code; in violation of Title 18, United States Code, Section 842(a)(3)(A).

(c) To unlawfully transfer firearms, to wit, destructive devices; in violation of Title 26, United States Code, Section 5861(e).

(d) To maliciously damage and destroy by means of an explosive bomb, buildings, motor vehicles, real and personal property used in interstate commerce and in activities affecting interstate commerce; in violation of Title 18, United States Code, Section 844(i); and in furtherance of the said conspiracy

and in order to effect the objects thereof in an effort to subdue, overcome and destroy resistance to the organized labor movement in Central Florida, the defendants and others committed among other overt acts the following overt acts:

Overt Acts

(1) On or about February 25, 1971, at the Teamsters Union Hall, Local 385, 1339 West Washington Street, Orlando, Florida, Paul Henry Parker instructed Hermon F. Witt to destroy, by the use of explosives, Keystone Trucking Company, Overland Hauling Company and Jahna Sand Mine and in so doing to cause it to rain dynamite on said companies.

(2) Sometime on or about February 28, 1971 at Teamsters Union Hall, Local 385, 1339 West Washington Street, Orlando, Florida, Paul Henry Parker instructed Hermon F. Witt to travel to the Miami, Florida area to obtain dynamite, blasting caps and fusing material.

(3) Hermon F. Witt travelled to Miami, Florida on or about March 1, 1971 and there obtained a quantity of blasting caps dynamite and fusing material.

(4) That on or about March 1, 1971 at or near Killarney, Orange County, Florida, Herman F. Witt and Curtis Leroy Love had a conversation about bombing a number of business firms, namely, Keystone Trucking Company, Overland Hauling Company and Jahna Sand Mine owned by Jahna Industries, Inc.

(5) During the first week of March, 1971 at or near Casselberry, Florida, Hermon F. Witt made a destructive device from the dynamite, blasting caps and fusing material obtained at the direction of Paul Henry Parker.

(6) That during the first week of March, 1971, at or near Killarney, Orange County, Florida, Charles William Bullard and Johnny Mack Brown had a conversation about bombing the Jahna Sand Mine property.

(7) That during the first week of March, 1971, at or near Killarney, Orange County, Florida, Charles William Bullard and Johnny Mack Brown possessed and stored a quantity of dynamite bombs at the residence of the said Johnny Mack Brown.

(8) That on or about March 7, 1971, in Lake County, Florida, Charles William Bullard and Johnny Mack Brown placed and ignited a dynamite bomb on a dredging machine owned by Jahna Industries, Inc.

(9) That on or about March 9, 1971, Johnny Mack Brown and Charles William Bullard did travel to Keystone Trucking Company, located in Killarney, Orange County, Florida.

(10) That on or about March 9, 1971, at Killarney, Orange County, Florida, Charles William Bullard and Johnny Mack Brown ignited and hurled a dynamite bomb onto the premises of the Keystone Trucking Company.

(11) That on or about March 18, 1971 at Teamsters Union Hall, Local 385, 1339 West Washington Street, Orlando, Florida Paul Henry Parker advised Hermon F. Witt to contact David W. Wingate and obtain fusing materials for dynamite bombs.

(12) That Hermon F. Witt on or about March 18, 1971, met David W. Wingate in Orlando, Florida and obtained from David W. Wingate fusing material for a dynamite bomb.

(13) That on or about March 18, 1971, David W. Wingate requested Hermon F. Witt to arrange for a dynamite bomb to be placed upon the premises of the construction site of the Orlando Municipal Justice Building in Orlando, Orange County, Florida.

(14) During said conversation, David W. Wingate offered to pay $800.00 for said destruction.

(15) That on or about March 18, 1971, Charles William Bullard and Ashley B. Burch, Jr., placed a dynamite bomb in the construction site of the Orlando Municipal Justice Building and detonated said bomb.

(16) Within a few days after the bombing described in overt act number 15, David W. Wingate did pay Hermon F. Witt $800.00 and Hermon F. Witt divided said sum among himself, Paul Henry Parker and Charles William Bullard.

(17) That during the latter part of March, 1971, in Cheraw, Chesterfield County, South Carolina, Charles William

Bullard obtained two cases of dynamite, a quantity of blasting caps and fuse.

(18) That during the latter part of March, 1971, in Cheraw, Chesterfield County, South Carolina, Charles William Bullard, Johnny Mack Brown and Mary Ann Brown, transported two cases of dynamite, a quantity of blasting caps and fuse from Cheraw, Chesterfield County, South Carolina to Orlando, Orange County, Florida.

(19) That during the latter part of March 1971, at or near the Overland Hauling Company, Ocoee, Orange County, Florida, Charles William Bullard and Johnny Mack Brown delivered a dynamite bomb to Kyle Elzie Duvall.

(20) That on or about April 4, 1971 at Killarney, Orange County, Florida, Charles William Bullard and Curtis Leroy Love ignited and hurled two dynamite bombs onto the premises of the Keystone Trucking Company.

(21) That on or about April 4, 1971, in Orlando, Orange County, Florida, Hermon F. Witt at the direction of Paul Henry Parker delivered a quantity of dynamite bombs to Johnny Mack Brown and Curtis Leroy Love.

(22) Sometime in early April 1971, Hermon F. Witt directed Curtis Leroy Love to bomb Overland Hauling Company, Ocoee, Florida.

(23) That on or about April 16, 1971, Curtis Leroy Love and Alto Oglesby did travel to Overland Hauling Company, Ocoee, Orange County, Florida in possession of a dynamite bomb.

(24) That on or about April 16, 1971 at Ocoee, Orange County, Florida, Curtis Leroy Love ignited and hurled a dynamite bomb onto the roof of the Overland Hauling Company office building.

All in violation of Title 18, United States Code, Section 371.

A TRUE BILL

_____

Foreman

JOHN L. BRIGGS
United States Attorney
By _____
Assistant United States Attorney

APPENDIX C

(Portions of transcript of testimony
presented during trial proceedings)

DIRECT EXAMINATION

BY MR. HORWITZ:

Q Please state your full name and spell your last name for the record.
A George R. Truitt, T-r-u-i-t-t.

Q How are you employed, sir?
A I am a Special Agent for the Alcohol, Tobacco and Firearms, U.S. Treasury.

Q Where is your present duty station?
A Miami, Florida.

Q Prior to that where were you stationed?
A Orlando, Florida.

Q When were you stationed in Orlando?
A From '69 until '76.

Q We have a screen set up here. I would like to talk to you about some slides that you took and we'll get into the rest of the questions.
You took some pictures of a cache of bombs discovered; is that correct?
A Yes.

Q Where did you discover those bombs?
A In a Fosgate Mine in the Minneola section of Lake County, Florida.

Q Anybody tell you the location of those bombs?
A Curtis Leroy Love told me where they were, the area where we located them.

Q Who was with you when you looked for those bombs?
A Agent Goodman, I believe Tom Easterling was there, the Deputy Fire Marshal, Lake County Deputy Sheriff named Brooks and Arnie Nasi from the bomb squad here from the Orange County Sheriff's Office.

Q When was that that you were out there and discovered these bombs?
A We found them on the 19th of November, 1971.

Q Were you taking pictures at that time?
A Yes.

Q Are those on slides?
A Yes.

Q Are those slides presently in this projector (indicating)?
A Yes.

Q Have you reviewed the slides that are in the projector?
A Have I reviewed them?

Q Yes.
A Yes.

Q Do they accurately portray the scene as it was depicted at the time you discovered these bombs?
A Yes.

Q Do you know how many are in the projector?
A I think there is eight.

MR. HORWITZ: Your Honor, at this time I would move to have — it is somewhat difficult — I can't have them marked while they are in the projector, but I would like them marked as Composite Exhibit, whatever the next number is.

THE COURT: All right. Have these been supplied to counsel for the defendants?

MR. HORWITZ: They have been supplied to Mr. Cohen.

THE COURT: Is there any objection, gentlemen, to these?

MR. RUSS: I have not seen it, Your Honor, but I have no objection.

MR. COHEN: I have no objection.

MR. MADDOX: I haven't seen them but I have no objection to them.

THE COURT: All right.

Then, you can proceed to supply the photographs,

mark them as Composite Exhibit, and they will be in evidence as a Composite Exhibit.

MR. HORWITZ: Thank you.

Lights, Mr. Clerk.

(Pictures were projected on a screen.)

BY MR. HORWITZ:

Q You observe that — can you see that picture, Mr. Truitt?
A Yes.

Q Describe what is depicted there.

Just one second. Describe to the Jury what is depicted in that picture.

A That is a brown plastic wrapper or bag like you put in a trash container containing some bombs.

Q Is that the way it appeared in the —
A Yes. That is an undisturbed photograph as we first saw it.

Q What is that?
A That is the same from another angle, photographed around the —.

That is from a little bit closer.

That is with one corner torn off. You can see the sticks of dynamite.

That is the sticks of dynamite that has a thick wrapper. That was inside the brown plastic wrapper. That is the clear plastic wrapper.

That is the cache where we found it.

MR. HORWITZ: Your Honor, might the witness step down?

THE COURT: Yes.

BY MR. HORWITZ:

Q Would you point out on there where — when you stated where the dynamite was, point that out on there.
A Yes. This is the dynamite (indicating). This is the —

Q You will have to speak up, Mr. Truitt.

A This is the sticks of dynamite (indicating).
This is the fuse (indicating), and that is wrapped like this (indicating).
This is the tape that holds the fuse to the dynamite.
This is a piece of fuse with a cap, detonating cap crimped on the end of the fuse on the stick of dynamite.
That particular one has seven sticks.

THE COURT: Mr. Truitt, we have a pointer here if you want to use it.

THE WITNESS: All right.
This is the cache opened up. There is a bomb here (indicating). You can see the safety fuse sticking out of the end of another bomb here (indicating).
This is Arnie Nasi of the Orange County Sheriff's Office taking the fuse.
This is a one-stick bomb with a piece of fuse around it (indicating).
This is another seven sticks with a fuse around it. He is taking a sample of dynamite out of, stick of dynamite. It is labeled dynamite — see the seal there (indicating). He is further opening up the cache. This particular dynamite is glycerin base and it weeps, what they call weeps, and gets very dangerous.
Nitroglycerin runs out and is collected in this lining, and the more it runs out the more concentrated it gets and the more unstable it gets. That is a very dangerous practice.
Here he is taking a sample of the nitroglycerin. If it touches the skin it will give you a very very bad burn. That is why he wears gloves.
Here he is taking the fuse out with the cap on it — very touchy part.
This sample goes into the plastic bag and it is submitted to the lab.
Here is a one-stick bomb with a fuse wrapped around it (indicating).
Here he is removing the fuse and cap, taking the cap out of the dynamite (indicating).
I think that is it.

MR. HORWITZ: May we have the lights back on, please.

BY MR. HORWITZ:

Q The devices that you found, were they capped and fused?
A Yes.

Q What would have been necessary to ignite those type of devices?
A Light the fuse.

Q Now, drawing your attention to April 16, 1971, were you at the premises of the Overland Hauling Company on that evening?
A Yes.

Q And when did you first travel there?
A Just after dark I received information that the terminal would be destroyed that evening, and we, several officers and I, went into the field across the street from the building, across the street from the trucking terminal.
Of course, we had arrived at dark, and it was in the middle of town.

Q I show you what has been marked as Government is Exhibit Number 1. Do you recognize that exhibit?
A Yes.

Q What do you recognize it to be?
A That is a graphic or a picture of the scene as saw it actually in the daylight hours of April 16.

Q Where were you when you traveled there that night?
A I was in this abandoned house right here (indicating).

Q What were you doing in that house?
A I set up an observation post of the front of the business, office building of Overland Hauling, which this is their office area (indicating).

Q What if anything did you observe from the house while you were in there?
A At approximately 10:31 a car drove by south on Glover (sic) Avenue right in front of the truck terminal.
It slowed down, then, proceeded up the road, and turned on to a dirt road that is depicted in the picture (indicating).

The car came back and pulled into the parking lot right in front of the business area.

A white male got out of the car and threw a package on the ceiling, up on the roof. The package had sparks coming out of the end of it. I radioed the cars that were parked within the vicinity and told them that a dark colored car containing one white male, and I couldn't see the driver of it — the next car coming south containing the people — don't let them get away.

There was almost an explosion, a blue light coming out on the road behind the car as it left. And it traveled approximately two tenths of a mile south on Glover Avenue before the other enforcement officers got it stopped.

Q Who was arrested? Was there anyone arrested on this night?
A Yes, Mr. Love and Mr. Oglesby were arrested that night.

Q Mr. Love — is that the man who testified earlier in the trial?
A Yes.

Q And was there any explosion, or did anything happen to that bomb that was thrown on the, on to the roof?
A Yes. It did explode. There were four people in the building at the time the bomb was thrown up.

APPENDIX D

(Colloquy between court and counsel regarding *in camera* proceedings)

"THE COURT: Did you want them to reveal to me what is in their files?

MR. RUSS: I would request an *in camera* inspection of their files so as to resolve these questions.

MR. CHARLTON: I was about to suggest - I have no objection to Your Honor inspecting my files or having one of your law clerks, even at your direction, brief the file.

THE COURT: Well, I would have to do it myself on the record on an in camera basis, I suppose."

(App. D).

APPENDIX E

(*In camera* proceedings)

TRANSCRIPT OF IN CAMERA PROCEEDINGS had in the above-styled cause, held on Wednesday, September 15, 1976, in the U.S. Courthouse and Federal Building, Orlando, Florida, before the Honorable John A. Reed, Jr., United States District Judge.

(In Chambers.)

THE COURT: Let the record show this is an in camera examination of Norman J. Abood who is an attorney and member of the Florida Bar with offices in Jacksonville.

I am not going to put you under oath, Mr. Abood, because you are an officer of the Court. I will simply accept your representations to me.

NORMAN J. ABOOD,
called as a witness by the Court, testified as follows:

EXAMINATION

BY THE COURT:

Q Now, do you have an attorney-client relationship with Herman Fulton Witt and Charles William Bullard?
A Yes, I did.

Q When did that relationship commence in point of time?
A In point of time as to Herman Fulton Witt the attorney-client relationship had its inception in the latter part of 1972, I would say approximately the month of November, wherein Mr. Witt was indicted for his complicity in some dynamiting and bombings in the Orlando area.

I was hired by Mr. Witt to try his federal criminal suit which was tried in Jacksonville. I did not represent Mr. Bullard at that time.

A gentleman named *G. Frank Godfrey represented Mr. Bullard at his trial*, and at the conclusion of the trial, if memory serves correct, on April 5, 1973, the Jury found both of the defendants guilty of various charges in the indictment.

At that point I represented Mr. Witt and Mr. Bullard on appeal, and did so through the Fifth Circuit of Appeals and up to the United States Supreme Court, where their appeals were denied by the United States Supreme Court.

Thereafter I represented Mr. Bullard and Mr. Witt in their attempts to file various motions seeking new trials or seeking to have their sentences reduced by the court and seeking to discover new evidence that may be helpful to them with regard to these motions.

The matters that I have in my file are letters, documents, motions, correspondence, things of that nature from Mr. Witt and Mr. Bullard to me and vice versa.

Q What was the purpose of their communications to you? I suppose it was in connection with what you have just —

A In connection with, for example, Your Honor, they would advise me by letter to please come to Atlanta where they were incarcerated in the Federal Penitentiary in Atlanta, Georgia.

Q Yes.

A The purpose of the correspondence was we could not see each other unless we either were, I went to see them or we wrote.

They *felt as though, that certain matters could not be contained in the letters.*

However, *some of the things that they told me were that they had met with witnesses in the penitentiary who had advised them that the gentlemen that had testified at their trial, namely, Curtis Leroy Love, Johnny Mack Brown, and Alto Oglesby, were lying and that they had made a deal with the Government that should they testify against Witt and Bullard they would be released.*

And they had other inmates that signed affidavits saying that, and *they felt like this was newly discovered evidence and that they would be granted a new trial.*

They further protested their innocence to me throughout the proceedings until such point that there was a cutoff date from Mr. Witt, and the documents that I have will reflect to the Court that *there is an allegation by Mr. Witt that Mr. Parker was dating his wife and he couldn't trust anybody any longer.*

And then all correspondence ceased from Mr. Witt at some point in time which my file will show.

Q Yes.

A I continued — there was a lull with regard to Mr. Bullard until such time as a civil suit was filed by Overland Hauling

Company versus International Teamsters on down to the Local 385.

Mr. Thomas Pilacek who represents Local 385 asked me since I knew so much about the case and had lived with it for two or three years if I would assist him in the representation of Local 385 and/or Mr. Parker.

I advised him that I would if proper financial arrangements were undertaken, and I did assist Mr. Pilacek, and Mr. Pilacek and I on a number of occasions interviewed witnesses, namely, Mr. Bullard.

Mr. Bullard gave affidavits on at least two occasions to myself and Mr. Pilacek and wrote letters to me advising me of the matters contained in the letters which the Court will ultimately have to examine.

At that point in time I was representing the local union and Parker as associate counsel with Tom Pilacek. Mr. Bullard was what I would consider to be a main witness on behalf of my clients.

I explained to him at that time that his testimony would be critical in this civil suit and there was no doubt in my mind that the Government was also investigating possible criminal charges along with the civil charges which were almost identical in nature. They read very similar to the indictment.

I advised him of that, advised him what he was getting himself into in that whatever he said and did must be taken in the most serious vein and not for the purpose of gaining favor, hoping that I would represent him further to help him along and get him out of jail.

He said that he knew that and that all he wanted from me is, from time to time if I would help him with his parole matters and things of that nature, and I told him that if he had told the truth I would do so.

That if he told the truth in all matters he told me or testified to, I would help Mr. Bullard.

As a sideline the letters show that I insisted on some kind of payment from Mr. Bullard because I didn't feel as though the union should pay me even though it was a witness and a star witness, to do some private matters.

So Mr. Bullard had taken up painting in jail and he sent me a number of paintings which I sold for some very nominal amount quite frankly, or gave to friends, but insisted of Mr. Bullard that if he wanted any legal advice from me or help some sort of monetary consideration or consideration be given to me, and that is mentioned in the letters also.

Q May I ask you this about Bullard. You said that you were representing the union and Parker in connection with the civil suit.
A That is right.

Q And that Bullard would be a key witness for the union.
A I felt like he would.

Q I take it that you mean a key witness in favor of the union?
A In favor of the union.

Q Did he in the course of his dealings with you, that is, Bullard, did he disclaim any responsibility on Parker's part for the bombings?
A *At all times. I have in affidavit form two affidavits. And, Judge, so that you will understand, he was my ears and eyes as to what the civil attorneys were doing and as to what the Government attorneys were doing and what the Government agents were doing.*

I instructed him since he had convinced me, and in my investigation of the case I was convinced, which might be self-serving to Mr. Parker, I was convinced Mr. Parker had nothing to do, since I tried the original suit, Mr. Parker had nothing to do with these allegations.

That I wanted to know what it was that the *civil attorneys were doing since there was some stonewalling in their depositions.* We couldn't seem to get any answers.

I think the Court may have ruled on some of those motions, but in any event *I was interested* in knowing what the Government agents were doing in addition to what the civil attorneys were doing, since he advised me that they would meet him at the same time.

In other words, Scott Charlton, George Truitt, the Assistant Warden, the case worker, Mr. Witt and Mr. Bullard would meet in prison in one of the areas they have to talk in.

And Mr. Bullard would advise me of these conversations. He would advise me of promises that were allegedly made to him. He would advise me as to what privately Witt would tell him to say and do.

And I had advised Mr. Bullard to go along with Witt for the purpose of finding out whether or not there was any perjury involved or any setup involved.

I advised him at all times not to make any statements but if he did to tell the truth.

But that is — I have these affidavits with me from Mr. Bullard along with letters. *This is a particularly disturbing matter to me as an attorney in that I have read some of the Grand Jury testimony of Mr. Bullard, and where Mr. Bullard is at variance after he was turned down for a, where he was set off on parole for three years very recently.*

Q Yes.
A He wanted me to represent him. He was brought down here sometime in the latter part of last year to testify for the, before the Grand Jury, and he asked me to consult with him, of course, in the hallway, and I told him I would do so.

I received a call asking me to come to the jail, and he told me he would have to fire me.

I said, "Well, that is fine. All I want to know is why?"

He said, "The Government has ordered me to fire you or I can't get immunity and they will get me a lawyer."

I told him, "Charles, that is fine with me. Tell the truth, whatever you do tell the truth if it hurts somebody."

He told me it was going to hurt somebody and I told him to tell the truth.

As it turned out, Your Honor, and we are in camera —

Q Yes.
A — it turned out that the person hurt was Mr. Burch, Ashley Burke (B-u-r-k-e) or Burch, I don't know. I don't even know the name.

I told him once again, "If they give you immunity and you are placed under oath, testify as you have given it. Testify just exactly the way you recall things and don't concern yourself with what others may say. You just tell the truth."

I have copies of the Grand Jury testimony, now, Your Honor, at this stage. The attorneys have given it to me.

He told me that the first time he was taken to the Grand Jury room he was cut off short and later on, of course, he was taken back, I think, on two different occasions.

I received a very critical letter, in the meantime, this Court, I feel like, is going to be very interested in.

I wanted to know what he meant by it because he wrote me a letter, and the letter says, starts off — it is dated February of '76, and the letter starts off, "Dearest Norman," and I really fell for this line.

May I read it to you —

Q Yes.
A — instead of trying to paraphrase it. It is burned into my memory, Your Honor, because, well, as I say, I have never had an in camera talk, and it upsets me to no end.

I was contacted by the Government Agency or called to the Grand Jury in this matter because everyone got to know — excuse me — everyone got to know that I know something, and no one seems to want to know except Mr. Russ and Mr., of course, Mr. Maddox who I talked to.

I feel comfortable that Mr. Bullard — I am not under a conscience, an instruction from Mr. Bullard because he has always told me that I could talk to anybody, and that was the purpose of giving me all these letters and things of that nature.

One particular letter is going to be, anyway, in my experience as an attorney, very important to somebody in this case.

Here is a letter that I would like the Court to look at. *It is a February 19, 1976* letter from Mr. Bullard to Norman Abood.

(Handing document to the Court.)

Q Well, I don't understand this letter. It is a letter of February 19, 1976, and just to read a part of it into the record, it is addressed to Mr. Abood and it says, "Dearest Norman, Just a line to let you know I fell for a line. I was advised to fire you with the understanding that I would be paroled or cut loose from prison by telling the truth, etc.

"Apparently the truth isn't what the Government wanted to hear after all. The Parole Board gave me a three year set-off this morning." That is a period. That is the end of the first paragraph of the letter.

I presume that what he is referring to about telling the truth is his testimony before the Grand Jury.
A That is right. You see, Your Honor, of course the file in the case shows what our conversation, since I talked to him after that —

Q Yes.
A — what our conversation was, and he — so this is, this is also — of course, my file is available to you.

This is a letter that would be of some interest. It is a short —

Q Just let me make a note of the date of this letter. It is February 19th.

While we are talking about this February 19th letter, do you have any knowledge about this promise that he refers to in the first paragraph when he says, "I was — " "I feel for a line. I was advised to fire you with the understanding I would be paroled or cut loose from prison by telling the truth"? Do you have any knowledge of that kind of a promise to him?
A Other than what he told me?

Q Yes, any kind of promise by any Government agents to this guy that he would be paroled?
A Of course, Your Honor — no, sir. I don't think the Government would have this proffer other than correspondence that follows here that tells me that I had to be fired.

If I may, this is a November 12th '75 letter which is a little bit earlier. This is when Mr. Bullard was called to Orange County from Atlanta to testify before the Grand Jury.

It is a very short letter, and if I may read it —

Q Surely.
A "Dear Norman. I was called on the phone 11-10-75 due to the conversation I had with Mr. Witt and the conversation I had the following day 11-11-75 with two agents who said they were from the ATF. Do not recall their names.

"However, after talking with Mr. Witt and the agents they convinced me that I could not be granted immunity unless I released you as my attorney.

"However, in all due respect I appreciate all you have done for me, and if any way possible after I am granted immunity and required to testify before the Grand Jury I want you to represent me at that time.

"You may keep the money for the paintings I sent you to sell for me as a fee for your service.

"As I told you and the ATF I intend to tell the truth if I testify. However, since you are familiar with all of the facts in this case I feel I really need your guidance and counsel.

"My very best regards." Of course, as part of the court record I have a note from Mr. Bullard firing me —

Q Yes.
A — to comply with their wishes.

Q When did that note firing you come in relation to this first letter of February 19th?

A It was right about there, November 12th. It is filed — it says — I will show you instead of going to the court file, right on it it says "filed November 11." He writes me November 12 telling me why I had to get fired.

Q Where was that filed? You say that was filed in the court file?

A I am sure it was.

Q Okay.

A Was that the immunity hearing —

Q All right.

A — because he asked for me.

He was brought before the Court — the way I understand it, Your Honor, he was brought before the Court and they said, "You have an attorney?" — this is what was told to me, Judge — he said, "Yes, Norman Abood is my attorney."

And they told him, "You can't get immunity with Norman Abood. You have to get rid of Norman," and he, Mr. Bullard, serving quite a length of time in jail, he was going to do as they wished —

Q Yes.

A — about firing me because I explained to him I couldn't be in the Grand Jury room anyway, and that if he told the truth I didn't think he had anything to fear.

And reading those letters together, you begin to get a picture of what my concern is in this thing.

There is a — Judge, in these letters — I understand from one of the attorneys a document was marked as an exhibit. It was an affidavit of Mr. Bullard. I have the original here.

I don't know if the Court read it, but I have an earlier statement that the attorneys do not know about except this morning I advised them I had a statement, but my status was so uncertain I really was not sure what the Court was going to do, what anyone would say.

But this is a statement that I took in the Federal penitentiary in Atlanta, Georgia, on July 22, 1975 in my handwriting, and it is entitled, "Statement."

It says, "My name is Charles William Bullard," and gives

his prison number, "inmate at the Federal Prison in Atlanta, Georgia.

"I am giving this statement freely and voluntarily without threat or promise of reward.

"I have been approached by Herman Witt to lie about Paul Parker in the Overland Hauling bombing case.

"I know for a fact that Paul Parker was not involved in the planning, execution or possible cover-up of the bombing.

"Mr. Witt has attempted to get me to go along with him and lie about Mr. Parker to get an early parole and immunity.

"I have been given the impression, I have given the impression to Mr. Witt that I would, but this was for the purpose of finding out what he was up to.

"I know that he is lying about Mr. Parker and intended to testify to this fact.

"I have been told if I do not cooperate I will not get an early parole. Mr. Charlton, Mr. Truitt, the Assistant U.S. Attorney, Assistant Warden Mulligan, although I have been promised an early parole.

"I will not lie in order to get an early parole and intend to tell the truth under oath.

"My attorney, Norman Abood, is aware of what is going on and I am being advised by him to go along with Herman to find out what is going on.

"Herman wants me to say I was present when Parker gave orders to bomb and gave dynamite. This is a lie.

"I have also been promised that I would be sent to a medium security unit in return for my testimony."

It is signed, "Charles W. Bullard."

I was the notary sworn to, Your Honor. That is the early, what I would call the early statement.

Q That was signed in your presence by Abood — by —

A Bullard.

Q — by Bullard.

A That is my handwriting. I do not believe Bullard writes — you will see the difference as we go through these things. You may see that Bullard has a different writing. I believe other people write letters for him and he signs them.

Q Why did you get this statement from Bullard? What was the purpose of this statement?

A The purpose of the statement was investigation of the Overland bombing case because I wanted to know exactly what we were in line for — the same as I would investigate in almost any criminal case.

During that period of time Bullard was writing me — I don't want the Court to think this was isolated — Bullard was writing me from time to time letting me know his problems as some prisoners do.

I think that Witt — I will wait until the Court finishes then I will go ahead.

THE COURT: I want to get the Clerk to come in here and mark some of these with exhibit numbers.

THE WITNESS: All right.

(Short pause.)

BY THE COURT:

Q May I just leave your representation of Bullard for just a minute to try to get a little better understanding of your representation of Witt.

A All right, sir.

Q To what extent did you represent Witt? Let's see, you apparently defended Witt in the criminal suit and you took the appeal through the Supreme Court.

Then you dealt with him in connection with his post-appeal motions.

A Yes.

Q And now, did Witt — shut that door all the way, would you, Lou.

Did Witt in dealing with you maintain his innocence of participation in the bombings?

A He did until the very very end when — I don't know what date he talked to the agents, but he was still filing motions on his own.

I think the Court record — I don't have them, Judge. I have seen some copies signed under oath and giving me a list of witnesses that would swear that he was elsewhere during the time of the alleged bombings which I think he attached some affidavits to his motions.

Your Honor, I want your advice to protect myself be-

cause I don't — when Witt was doing this I advised him in the strongest possible way that in filing these motions it could lead to further charges in the event they were unfounded —

Q Yes.

A — in getting others to back him up.

These people perhaps without counsel inadvertently in order to help their friend could be perjurors. Witt, however, maintained his innocence to me.

I hope I am not a dumb man, but I didn't really — his story didn't wash, but I weren't in the jail to call the man a liar.

I told him that — Judge, would it be proper for me to tell you something that he wanted to do during the trial? Would that be —

Q During the course of the trial?

A Yes. I don't know what — you see, my problem is I don't know what he said.

Q Well, he testified yesterday or it was demonstrated yesterday through documents introduced in cross examination of him, namely, these motions, you know, rather a complete motion for new trial after the appeal was denied —

A Yes.

Q — with attached affidavits —

A Yes.

Q — that Witt did maintain a position of innocence apparently up until 1975 sometime when he learned that several of the other participants were paroled after receiving rather short terms.

A Yes. That is the way I understand it.

Q So that has been established in this record.

Now, go ahead and tell me what he wanted to do during the trial.

A In the course of the trial he — there was a question as to whether or not he would testify, a question of it in my mind, at least.

Q Yes.

A And I haven't seen his demeanor on the stand here, but I,

and some attorneys might do this in a case like this, I go through the practice of having the man sit in a chair and I will say, "You be the witness and I am going to be the attorney, and we'll have somebody cross examine as if he were the prosecutor and we'll assume there is a judge there."

Q Yes.
A He couldn't answer my questions satisfactorily or I was uncomfortable with him.

Tom Larkin knew about the case, knew about Love and Oglesby, knew a lot about the case, and I asked Tom who is a former U.S. Attorney, I asked him to assume the role of Alan Todd who was prosecuting and cross examine my client.

Mr. Witt wanted to fight Mr. Larkin. I never could quite explain to Mr. Witt that Mr. Larkin was play acting, that this was a play, that this was in preparation, and if he could not answer these questions my advice would be to not take the stand.

Q Yes.
A Because you are subject to cross examination.

First you are bound to tell the truth and even though you are telling the truth, sometimes nerves get a hold of you and you can't handle cross examination.

I knew for a fact the man was not sleeping well, driving back and forth to Orlando, Jacksonville, every night, sleeping three hours, and he had been taking some medication to keep him up, what kind I don't know, little black pills, I never inquired, but one thing that disturbed me more than anything else is that during this trial Mr. Witt told me what did I want to use as a witness.

And I said, "Well, I want to use any witness that is favorable."

And he told me which disturbed me from that point throughout these denials and protestations of his innocence that he could get a bus load of people to testify to anything I wanted to hear.

I explained to Mr. Witt, "I don't want to hear anything except a witness who would swear to tell the truth, that is, telling the truth, because I am not going to put on perjured testimony," even if he was innocent.

He told me other folks were lying about him. His position was always — he maintained it — said Love and Oglesby lied about him, and his position was he had friends who would lie for him.

Q Yes.
A And the record will show that I put on no one except Tom Larkin to rebut Love and Oglesby who said that Larkin made up a story for them to tell in court. I just put Larkin on for that reason because I talked to Larkin and he said that was a lie.

I put on Parker for the purpose of — he brought some books and records in showing payments of some sort, I really don't even recall quite frankly, and I asked if he ever told anybody to do any acts of violence and Parker said no.

But I was particularly disturbed over the fact that Mr. Witt was apparently able and willing to obtain people, numbers from what he said, to testify as to what I wanted to hear, because of the fact he is very careful, only because of the fact that people were lying about him.

That is what he said, only because of the fact that everybody lied about him and therefore we should have a comeback.

So I refused to put him on the stand but advised him he could take the stand but I would not lead him through any testimony.

I told him that he has a right to sit on the stand and I would introduce him to the Jury and ask him to make his statement but I would not be involved in anything but that.

I told him I was going to approach the bench — the presiding judge was Judge George C. Young — and was going to advise Judge Young that is the way I intended to proceed with Mr. Witt, knowing that Judge Young would know what I was talking about.

Mr. Witt did not take the stand in this case. However, even after the conviction I was not fully convinced that he was guilty, 100 percent. I just didn't know.

Q Yes.
A Because witnesses against him were impeached. And the testimony of that trial showed they had made so many former statements in depositions, and lies, that I was at a quandry as to what to do.

Q Right.
A So Witt kept coming up with new affidavits from people saying that — on one occasion, the Court may remember, he was, he had an alibi, was out at Tim Lake's — I remember the lake — was at some party somewhere where he couldn't possibly be at some Ramada Inn passing out dynamite.

Q Yes.
A I finally investigated that affidavit and asked the man would he come to court to testify and Tim Lake said no. So I once again was throttled at that point.

Q Right.
A But, Judge, I think just to, so you will know a little bit, these documents I read to you, this is it (indicating).

I think the court file would show I got fired on November 11 and I got hired on November 12. This is the document I read to you rehiring me.

I believe that — well, I will let you look at them.

Q Yes. Just let me take a look at them.

(Short pause.)

THE COURT: This letter, or rather this statement dated July 22, 1975, I want the Clerk to mark it as Court's Exhibit No. 1.

(Court's Exhibit No. 1 was marked by the Clerk in chambers.)

THE COURT: Then the letter of February 19 which you showed me earlier.

THE WITNESS: Yes.

THE COURT: I would like to have that marked as Court's Exhibit No. 2. This is February 19, 1976.

(Court's Exhibit No. 2 was marked by the Clerk in chambers.)

BY THE COURT:

Q *Do you have anything else in your file or in your communications between either of these two people that would indicate they were given promises by the Government for their testimony?*
A Yes, I do.

Q All right. What is that?
A After the statement of July 22, 1975, I was, as I advised the

Court, working with the attorney for Local 385 and Parker, Mr. Pilacek, and he was carrying the ball in Federal Court in the civil matter.

He did not know Mr. Bullard and he asked me if I would accompany him to Atlanta and introduce him, and if he could take a statement.

I said I would be glad to do so. I am sure as far as I know Mr. Bullard would give a sworn statement and from what I understood — I don't know if it has been marked or not, I wasn't here, but this statement, Your Honor — if I may read it, it is not real long —.

Q Sure.
A It is entitled "Affidavit, State of Georgia, County of Fulton." The handwriting is in the hand of Thomas Pilacek. He is an attorney in Orlando.

"Charles William Bullard, being first duly sworn, deposes and says:

"Paragraph One. I am an inmate of the Federal Penitentiary at Atlanta, Georgia, and have been such for over three years.

"I was convicted of obstruction of justice and conspiracy and transporting dynamite bombs and damage to interstate property, firearms act.

"Herman Witt and I supposedly delivered explosives to people who then used them to blow up Keystone Truck terminal, two trucks, and the Overland Hauling office building, and the Jahna Sand Mines.

"Paragraph Two. Herman Witt and I supposedly met at a motel where we gave bombs to Johnny Mack Brown and Curtis Leroy Love to do some of the dynamiting with. That was the extent of the evidence wherein Witt and I allegedly committed any acts together, as brought out at the trial."

Q Would you go back and read that again, just that —
A "Paragraph Two. Herman Witt and I supposedly met at a motel where we gave bombs to Johnny Mack Brown and Curtis Leroy Love to do some of the dynamiting with. That was the extent of the evidence wherein Witt and I allegedly committed any acts together, as brought out at the trial.

"Paragraph Three. Johnny Mack Brown testified that the person who brought out dynamite bombs to me at the Keystone picket line was unknown, but was driving a black Lincoln. I did not know this person at the time, but I saw his face. I came to learn the identity of that person about

one and a half years later when, being free on bond while my case was pending, I moved in with Herman. I then saw the man's picture on Herman's dresser. The picture was of Herman's son, Herman Randall Witt.

"Paragraph Four. I had been at Atlanta penitentiary about five or six months when McGathlin, my case worker at the time, called me into the visiting room, saying that the ATF agents who worked the trial wanted to see me at the visiting room.

"I refused, saying that if I wanted to see them, I would put them on my visiting list.

"When I had been at the Orange County Jail waiting trial, agent Zettner approached me and said that if I would cooperate in convicting Herman Witt, he would see to it that I would get three years probation at the most.

"Later, before I was convicted of obstructing justice, ATF agents Longnecker and Goodman spoke to me in the Marshal's holding cell.

"They had a blank white sheet of paper, and wanted me to sign it, probably a waiver paper. I told them I would not sign it without my attorney.

"About two months after McGathlin's interview, he again approached me and said he had some good news, that a Mr. Roch wanted to see me and that he would really help me if I cooperated with him.

I told McGathlin that I would not talk to him unless Norman Abood, my attorney, told me to, and I did not talk to him.

"Paragraph Six. Herman Witt was also in Atlanta, and we saw each other very frequently. He went to Springfield, Missouri, penitentiary around the beginning of April, 1975, because of some heart problems.

"He stayed there about four months, and during this time he sent me correspondence at least once a week. I sent all of Witt's letters to Norman Abood and I believe he still has them."

If I may parenthetically, I gave them to Thomas Pilacek, Your Honor.

Q Yes.

A "Witt suspected that Paul Parker, president of Teamsters Local 385, of which union Witt was a business agent before his conviction, was having an affair with his wife, Sue Witt.

"On instructions of Norman Abood, I played along with

Witt and maybe even helped fan his jealousy. There was no Evidence I had that there was any basis at all for Witt's jealousy, and, as a matter of fact, Parker told me himself that it was totally false and he would be stupid to do that. I advised Parker what Witt was saying at all times.

"Paragraph Seven. When Witt came back from Springfield, around the first of July, 1975, he said that Sue and Parker had been meeting every Saturday night at the Ramada Inn, and that all the information he had been giving Sue Witt she had been giving Parker.

"He also said he knew she was on hard drugs and that the Federal agents could arrest her at any time, and that the agents had told him that they knew this.

"He then asked me if I knew somebody who he could get to throw acid in Sue Witt's face because he wanted to mess her up for life.

"Paragraph Eight. It seemed that after Witt came back from Springfield he had an obsession and hatred for Parker. It was all he talked about, and he was jumpy and nervous.

"The day after he came back, he took me out in the prison yard because he had something he wanted to talk to me about in strict confidence. I went.

"He said he had been in contact with some people, and he was sure beyond the shadow of a reasonable doubt that both of us could walk out of the penitentiary if I cooperated with him and backed up his story.

"I asked him what story. He said Love and Oglesby had made a deal with the ATF agents and had given them Witt and me in exchange for their freedom. By the same token he knew that the agents were interested in Parker and that he could do better than that and go all the way up the totem pole and turn those people over to the agents in return for our freedom.

"I asked him what he meant by that. He said all I had to do was testify that Parker called Witt, me and Love in Parker's office before the bombing and outlined everything he wanted done, Jahna Sand Mines blown up, as much damage as possible to Keystone Trucking Company, hit Overland Hauling and Leiffer Trucking Company. I had never heard of the last company.

"He asked if I would back him up. I told him that I had never been in Parker's office in my life, and that it was all a lie.

"He then said that I had been in the meeting room, so we

should say Parker told us that in the meeting room, and that Love had not been present. He then said that he would talk to me some more.

"Paragraph Nine. The next day Witt said that he wanted me to say that one day at a baseball field Parker had given Witt and me two-thirds of a roll of dynamite fuse about 18 inches in diameter."

Q Go back over that again.

A "Paragraph Nine. The next day Witt said that he wanted me to say that one day at a baseball field Parker had given Witt and me two-thirds of a roll of dynamite fuse about 18 inches in diameter.

"I asked him how we should say we were traveling, and he said in a brown Chevrolet, the one that Charlie Sharp used to drive."

Charlie Sharp is an assistant business agent for Local 385.

Q Right.

A "Paragraph Ten. All of these things were complete lies, and I never told Witt I would back him up.

"Next day we were in the yard again, and I said that Charlie Sharp was still with the union at the time Witt told me the baseball field incident was supposed to have taken place. Witt said, okay, then we were driving in his Lincoln."

Your Honor, if I could explain, that Lincoln was a union car.

Q I am familiar with the Lincoln. They have talked about it.

A Okay. That is why I say that — this is three years old in my mind and that is why I am having a rough time.

"Paragraph Eleven. During this time I consulted with Norman Abood, who instructed me to play along with Witt to keep his confidence, and I did.

"I never told him that I would back him up, but I indicated and left the impression that I would.

"Paragraph Twelve. During the first conversation after Witt came back from Springfield, Witt told me that he had been in contact with a law firm named Alley, Alley and Blue about this case, and they had told Witt that they could through the agents get us out of the penitentiary.

"He asked me to sign a paper or letter consenting to see Granville Alley, and I did. Alley sent a telegram, which Norman Abood has, saying that Scott Charlton would

come to see us, and that we should get him cleared as our attorney.

"Witt and I went to the case worker's office together, and Witt said we had an attorney coming up, to which the case worker responded that a clearance was not necessary.

"Paragraph Thirteen. Scott Charlton came according to the appointment. This was between July 1st and the 31st, I think, on a Friday.

"When I called the cell house officer, Pitts, who was here to see me, he said, your attorney," — who was here to see me, he said, your attorney, and he so advised the visitor's room.

"I asked him, Charlton, are you talking to us on an attorney-client basis? And he said, yes, sir.

"I then asked him if everything Witt and I told him was to be kept confidential as between attorney and client and again he said yes, sir.

"I said very little after that, only that I would tell the truth when I went to court.

"But Herman told Charlton that Tom Larkin, Paul Parker, Benton Greenleaf and Joe Morgan had conspired in Witt's presence to obtain a three million dollar loan for a construction company, with the understanding that they would get a kick-back of nine points cash and the points would be split among them but I don't remember how.

"The total" can you read that word? "The total kickback which was for the sole purpose of paying attorneys' fees for Witt's and my cases according to Witt was either $260,000 or $270,000 dollars. I know nothing about this, and I was not asked to back him up about that loan.

"Paragraph Fourteen. During this same conversation, Witt said that his life had been threatened by Parker in the event that he testified, and that Parker had even threatened him once in the visiting room here in prison. I personally know nothing about that.

"Witt also told Charlton that my life had also been in jeopardy.

"Again I know nothing about this, and I have never been threatened by Parker or any other person named by Witt.

"Witt told Charlton that I had been instructed to kill Johnny Mack Brown before he testified at my trial and that Parker had arranged that. I had been told by Herman to kill Johnny Mack Brown, not by Parker. Of course, I never did."

Q Been told by who to kill Johnny Mack Brown?
A By Herman. The first part of that says, let me read that, Judge, to make it clear.

Q Yes.
A "Witt told Charlton that I had been instructed to kill Johnny Mack Brown before he testified at my trial and Parker had arranged that. I had been told by Herman to kill Johnny Mack Brown, not by Parker, and, of course, I never did."

Q Yes.
A "Brown was a witness against both Witt and me regarding the bombings, and when Witt told me to kill Brown, he said nothing about Parker or anyone else. Witt also told Charlton that Parker had sent me a gun to use when I killed Brown. That is completely false.

"Paragraph Fifteen. At the end of July, I believe July 31, 1975, I was told to come to a meeting at which Witt, Charlton, ATF Agent Truitt and an Assistant U.S. Prosecutor from Orlando, whose name I can't remember, but I believe it starts with W, about 35 years old, black hair, were present.

"When I arrived at the visiting room, Charlton came down the stairs with Truitt and the prosecutor. They went into the Assistant AW's office — " There is something there, Judge.

Q Let's see.
A After "Assistant AW's office."

Q "Assistant AW's office, hot-box," I think is what it says.
A "Hot-box. I went back outside and saw them walk into segregation where Herman was.

"The case worker said they had gotten a telegram from central office to segregate him from me. They stayed in seg for about an hour, then called me into hot-box's office.

"Introduced themselves, then told me that they understood I could give them information about shady deals pulled by attorneys at my first trial, being instructed to lie by the union attorney at my trial, and about who was responsible for blowing up the municipal building.

"The prosecutor said he understood that I wanted immunity from further prosecution, transferred to a minimum security unit, and the charges dropped on me that I wasn't

guilty of. He said that if he got this done for me and anything I testified to was untrue, he would really burn my ass up. But if I testified and told the truth he would get me these terms.

"I told Truitt that I would tell the truth about everything from the day I started at Keystone Trucking up to today. Truitt agreed that was fair.

"Prior to this time they kept asking questions about the municipal building, the loans and the attorneys' instructions. I told them nothing except that when I testified I would tell the truth.

"Paragraph Sixteen. Charlton called me outside Cox's office by myself on two occasions during this meeting. He told me "Bullard, I've spent several hours talking to these people on your and Herman's behalf, and I'll personally guarantee you that if you don't cooperate your ass will be here 17 years from today.' He specifically used the word cooperate. This was before I talked with Truitt and the prosecutor."

Q Who did he say called him, told him that?
A Charlton.

Q Charlton. Okay.
A Yes.

"This was before I talked with Truitt and the prosecutor. I told him I would have to hear what they had to say before I would cooperate, but I guaranteed that if I went to court I would testify only to the truth.

"The second time Charlton called me out, he said he would be talking with the agents further, and even though they could not come right out and tell me, I knew what happened with the deal Bud Love and Alto Oglesby got (parole immediately), and the same would happen to me.

"He then said 'I am talking to you on an attorney-client basis," and that if I was not telling the whole truth it would be best to say nothing period.

"I understood Charlton's reference to the truth to be what Witt had told him.

"I later got a letter from Charlton about two weeks later saying that the conditions we had discussed were agreed to. The conditions met those outlined above in paragraph 15 of this affidavit.

"Charlton also said I stand to make a lot of money off this case, but even so, I won't do anything to get you in

deeper trouble. In fact, I know that the Government is not interested in any more time for you anyway, and all they're interested in is the truth.

"If you tell the truth, then, he would get me all the conditions. Charlton said the prosecutor could not do this by himself, but would only make recommendations to the Judge. However, Charlton said the Judge would do whatever the prosecutor asked him to do.

"Paragraph Seventeen. Just before Herman was put in segregation I met Herman in the yard and said I wanted to have a heart to heart talk. I told him that I have served three years, when all I had to do to get free was testify against him.

"I said that in light of that fact, I had the right to know the truth, and I wanted to know whose deal the bombing was, his or Parker's.

"Witt told me that these things had to be done and he did it. He said that the local union president could not come right out and plan these things. So that is what guys like him were for.

"I said, then, Parker knew nothing about it, and Witt said yes, but that was, but that wasn't going to get us out of jail. What would get us out of jail Witt said, was to give the Government what they wanted even if it was lies.

"He said that he wouldn't have even done that to Parker except that he was running around with Witt's wife, Sue, while Witt was in the penitentiary.

"Paragraph Eighteen. While I was in the Marshal's holding cell in Orlando, Witt had offered me $50,000 if I would take the entire rap, and he guaranteed he would get me out in 30 days. He then told me he had told the ATF agents that Parker, rather than he, had done this. That, of course, is totally false.

"Paragraph Nineteen. I know of nothing that Parker has done of my own personal knowledge. Everything that Witt tells me Parker did is either completely false or outside of my knowledge.

"Paragraph Twenty. I am giving this affidavit of my own free will, in an effort to help all concerned in the Overland case to arrive at the truth."

Signed, "Charles William Bullard, sworn to and subscribed before me this 11th day of September, 1975."

THE COURT: Will you mark that as the next exhibit, please, which will be what?

THE CLERK: Court's Exhibit No. 3.

(Court's Exhibit No. 3 was marked by the Clerk in chambers.)

BY THE COURT:

Q That is the most extraordinary thing I have ever heard, these things.

A Judge, when I saw, well, I read the Grand Jury testimony, I mean, telling people they are going to be dead, all that, this man, and I did everything in the world I could for this man, Bullard. I would be interested to see what he is going to testify to.

Q I will be too.

A They are interesting people. They think that, you know, only tell the truth in court.

They don't — like all the other statements that were made from the first trial, I can recall the witnesses telling me, well, Mr. Abood, those statements don't count, only tell the truth when you are in court.

I have been here, Judge, been here all day and gone through all these letters — now, they are not guilty, and they are — the Court might want to —

Q It has already been pretty well established they maintained their innocence.

But let me ask you this, have you got any statements by Witt in which Witt admits that Parker knew nothing of the bombs and that Wingate or Burch had nothing to do with the bombing?

A From Witt?

Q Yes.

A No, not written statements. I have oral — well, of course, oral statements had to be that way because Witt had nothing to do with it.

The statements that I had of, I have, Your Honor, and this is up to the Court, I guess, the defense lawyers, the statements that I have recently received from Witt is, are the type of statements that say I am going to get Parker for fooling with my wife, and they go on and on, of that nature.

Whether they will be testified to or relevant I don't know.

Q Yes.
A But I am uncomfortable with having them, and Mr. Russ is insisting I give them to him.

He may or may not use them if he sees them, but they weren't mentioned in the Grand Jury testimony that I looked at.

As I say, I am a witness that can't be in court to know what people are talking about.

Q Right.
A Let me, Judge, take one second to go through the — it will take me just a minute here.

Q Surely.
A Because Witt is forever —

Q While you are doing that —
A — filing new motions.

Q Let me just step out a minute and get something started here.
A Right.

(Short pause.)

BY THE COURT:

Q All right.
A Judge, I found a letter that may by innuendo mean something with regard to Parker.

It is a June 17, 1975 letter from Mr. Witt to myself.

It is a short letter. It says, "Please disregard what I said in my last letter about laying it all on the line if I heard any more about Paul and Sue.

"If they are that rotten they deserve each other. What gets me is that he goes around bragging about it even to Charley, and you know what you told Charley your opinion was.

"As I told you I would, I tried to get Sue to pay you the $5000, but like the motions, she did not, maybe I will find out why some day.

"Norman, I left her over $6500 in cash when I come to prison and she got over $5700 from my fund that was in the fund that Paul knows she got plus my Government pension check every month plus not less than $200 per week she makes.

"I know Paul is the cause of it all but I will not cause people who do not deserve heartaches and grief and problems over their rotten ways."

Now, I don't know if that sentence means anything exculpatory or inculpatory but I will read the rest.

"I understand or at least she told me she had the money in a savings account now. At first she had it in a checking account. This was at Combank in Fairvilla. That is at North Orange Blossom Trail and Smith Street.

"This is just about one-half mile from the union hall. The savings account is supposed to be at the same bank. It was taken out of our joint account and put in the savings account in her name. If you remember I was stupid enough to give her power of attorney.

"Call me out the next time you are here to see Charley and I will tell you more. I hope you the best of luck on his case."

Then there is a p.s. "This letter is not from being afraid of Paul. I just don't want to cause innocent people to have problems that do not deserve them.

"Best regards, Herman."

Q Pretty hard to know what he is talking about.
A Well, innocent people could be —

Q Innocent of any marital misconduct. That may be what he is referring to.
A That is why, I say, Judge, that I will just turn all this over — I am at a, really at a point that I — in a lot of these letters he says please do not tell anyone about these things —

Q Yes.
A — and I do feel an obligation.

Q You know, the attorney-client privilege would attach to matters that are presented to the attorney for the purpose of seeking the attorney's advice.
A Yes.

Q And a lot of these things do not appear to be within that area although they came about because of your attorney-client relationship with Witt and Bullard, too.

Lou, would you have Betty call John Carr and tell him to let the jury go and tell them to be back in the jury room after lunch, let's say at 1:30.

I am not going to be able to get to them until then. Tell John to apologize to them. This is a matter that has to be gotten out of the way before we go forward.

A Does the Court want to look at the —

Q Let's take a look at —

A Just so the Court understands the reference, which is important to me, personally, since I seem to be the subject matter of some sort of investigation of being the, of being paid union funds.

I am very pleased that I have letters saying that he is paying me and has, and that is self-serving, just a little bit, but I have never looked to anybody but Mr. Witt to pay me.

Q How about the last letter, that letter of June 17, with reference to a last letter, where he says, "Please disregard what I said in my last letter."?

A Oh, in this letter he just explains — there are all kinds of letters that —

Q About laying it all on the line if I hear any more about Paul and Sue.

A Of course, I am answering some of these things here, telling him how to file motions himself and don't rely on anybody else.

Here is a letter that talks about a notarized sworn statement, notarized statement of everything that went on but doesn't say what went on.

I am sure it wasn't read into the record, Your Honor.

Q Just let me take a look at it.

A Look at it first. It may not be important now, but if it is read into the record —.

(Short pause.)

Q This letter is just too vague and indefinite for me to consider at this point. I realize he makes reference to a notarized statement that he has made in the hand of somebody, but —.

Q Is this letter of May 15th the last letter that he wrote you before June 17th?

You see, in the letter of June 17th he said please disregard what I said in my last letter about laying it all on the line if I heard any more about Paul and Sue.

A I think that is my last letter, June 17, that's right —

Q Yes.

A — where he makes reference.

Q June 17 when he says please disregard what I said in my last letter?

A Yes. I am pretty sure it is. I am trying to go through them all.

It would have to be July if there is anything. I don't see a July letter or one just prior to that.

Q Yes. It would be earlier than July 17, 1975.

A I have got one here in February, but, of course, that is —

Q Would there be anything after May 15, in other words, between May 15 and June 17, anything later than May 15 but before June 17?

A No, not that I can see here. Just a second.

Here is one, a letter I found, Judge. I don't know if there is anything in here about what he said in that notarized statement, but here is a letter dated February 8th where he is talking about Sue and, and he says that — this is the part of it about Patsy Love, Bud Love's wife, that testified at the trial against Herman, and in talking about Parker, here is what he says.

"He had the nerve to call her" meaning Sue Witt "a Patsy Love and accused her of the same thing that Patsy did plus sort of threaten her in regards to her job, and otherwise period.

"She has not carried any tales period. There are none to carry. I want that understood."

You know, I am not going to be the trier of fact on this statement — then, they go on and once again say we have got affidavits, and, you know, that is one of the problems, they have always got affidavits from everybody.

Q Not carrying any tales.

A Says there are no tales to carry.

I have a May 6th, 1975 letter, Judge. I don't know if this is — that is the time period you asked me about —

Q That would be just prior to that.

A Yes.

There is an April — this just says that Parker says you

can use all the affidavits in your motion for new trial that we got him. That is all I can figure out.

I probably have the affidavits. I think everybody else has them, too.

Q The affidavits have been filed in evidence in the case.
A I wasn't sure. Every time I read them —

Q All right.
A So basically what I have other than right at the start, Judge, I do have all these things that were written, citing law to me, how to get a new hearing, and stuff like that. But, as you say, how much impeachment is enough impeachment. I don't know what the lawyers want.

Q Well, these two letters, the letter of May 15 and the letter of June 17, 1975 could be important because they establish that Witt might have a personal animosity towards Parker for what he perceives of an improper relationship between Parker and Witt's wife.

So would you mark these Court's Exhibits 4 and 5.

(Court's Exhibits 4 and 5 were marked by the Clerk in chambers.)

BY THE COURT:

Q The most serious items which you have presented to me as I see it would be the sworn statement by, well, the two sworn statements by Bullard because they show, if they are true they show a very studied effort on Witt's part to suborn perjury, get Bullard to support him.
A Judge, the only reason I think these other things are important is perhaps, as you say, motive. That is why I threw in this February 8th, just the first part.

Whether or not they want to proffer these questions — the fact that she has no tales to carry; I want that understood — the defense lawyer may have wanted to cross examine Mr. Witt if there are no tales to carry.

What does he mean by that? Maybe not the entire letter — the entire letter talks about, of course, he is not guilty, and he asked me to keep this in strict confidence. That is why I have been paranoid about not talking with anybody.

You may want to keep just the first page or make a note of it that it is in existence.

Q Let's mark that as Court's Exhibit 6.

(Court's Exhibit 6 was marked by the Clerk in chambers.)

A Judge, now, this firing and rehiring of Norman Abood doesn't concern you?

Q I don't think that needs to be gone into. I don't think that is too important.
A The only reason I mentioned it to you, since I am so prominently mentioned in these letters and in the Grand Jury testimony —

Q Yes.
A — that it is an explanation as to why he, meaning Bullard, had to do what he wanted to do, did what he did.

Q All right.
A Since these were letters that he tells the Government and the Court I am firing Norman, and really he is defrauding this Court by writing me 12 hours later saying I had to do it but I really want you as my lawyer anyway which may or may not be important.

To this day the way I feel about Mr. Bullard is a paternal thing. Really, he can say everything he wants to say, but frankly, I know what happened and I can, you know, I can take care of myself. I understand the situation.

Q All right.
A He writes my secretary and we send him fruit at Christmas. You know, it is one of those deals.

I was quite shocked at the way it was handled.

Q The point that, the point of the matter is that Court's Exhibit No. 3 which is the written, handwritten deposition by Bullard shows a Government promise on the part of — that shows he got a Government promise of leniency for his testimony. That is really about the only thing that that letter which you have about his firing and rehiring of you would show.
A But, of course, he hasn't testified yet. I don't know if they would bring me back in as far as Bullard or not, or if it would be important. I don't know.

Q Well, these documents —
A — they speak for themselves.

Q They speak for themselves pretty well but the lawyers may want you —
A — to testify.

Q To authenticate them.
A Unless I do it today.

As the Court knows, I have a law practice also, and I am not, you know, I can come down any time.

You know, the judges in Jacksonville want to know how long I am going to be here to plan around certain things, and —

Q What judge? You mean the State Judge, not the Federal Judge?
A No Federal judges, we don't have any.

Q It may be, Mr. Abood, that you can go back to Jacksonville today, and if anybody needs you to come down to testify — it will depend on what comes about by way of admissions, I suppose, in cross examination of these witnesses.
A Yes. Of course, I assume I am under the Rule and would not be able to talk to anybody but the attorneys.

If they called me, I assume that I could get here — it is a three or four hour drive, something like that, and I could get here —

Q We can work that in every easily, I think.

But let me talk with Scott Charlton now. If you would, leave those exhibits with me which I have marked as Court's exhibits.
A Okay.

Q I will announce my ruling on them in open court.
A I will hold on to everything else.

Q Right. And will you hold on to your subpoena also.
A Yes. Thank you. I needed, really, to bring — I was hoping that I wouldn't have to bring my court files which would have no relevance at all, but I will if anybody wants them.

Q Mr. Pirone, what is Court's Exhibit No. 1 over there? Let me just make my notes correlate here with these.

A Right. I was going to ask — I don't have a real good idea of what I have given the Judge, and I was really going to ask for purposes of maintaining a file, perhaps, that at some point in time the Court would allow the Clerk to put a copy for me so I would always have a complete file.

Q Sure.
A Okay.

Q I have not fully concluded that I am going to make these available to the lawyers. I want to do just a little ad hoc research before I announce a ruling.

So, you know, you can still retain your silence on these matters until —
A I was just going to ask you about that because I know the minute I walk out I am sure they are going to ask me what it is I said and I am going to say the Court will make a ruling.

Q In open court, right.
A I feel bad that I can't, but I also feel bound and I am bound, no question about it, except, Your Honor, if you would feel free at some point to ask — as to Bullard, throughout my whole relations, he has told me send everything to everybody.

Q That is right.
A I have letters saying give anything to anybody.

Q I think that would eliminate the question as to him.
A Right. Mr. Witt has instructed me, and I am going to unless, you know, otherwise instructed by the Court, to stick to the confidentiality aspect of the thing.

Q All right.
A Would the Court want me to remain until such time as you see Mr. Charlton?

Q I would, and I would like you to remain until I make my ruling in open court, please.
A Thank you.

Q Thank you a lot.
A I appreciate it.

(Mr. Norman Abood left the Court's chambers at 11:30 o'clock a.m.)

SCOTT CHARLTON,
called as a witness by the Court, testified as follows:

EXAMINATION

BY THE COURT:

Q Mr. Charlton, have a seat, please.
A Yes.

Q I am not going to put you under oath. I would just like to talk with you about your relationship with Witt and what you do have in your file.

Mr. Charlton is a member of the Florida Bar, has offices in Tampa, and the Court does not feel it necessary to swear him.

Would you tell me when your attorney-client relationship with Witt arose, what the purpose of it was, and when it terminated, if it did terminate.

A Your Honor, the origin of it is somewhat vague in that shortly after suit was filed in the civil case which I believe it was assigned to your division of the court —

Q Yes.
A — we received a joint letter, and by that when I say "we", I mean Granville Alley of the Alley, Alley, Blue law firm, Mr. Alley received a letter signed by both Mr. Witt and Mr. Bullard, Charles Bullard, to the effect that they wished to confer with us and tell us everything that they knew about the subject matter of the complaint we filed.

Our interest was, of course, with reference to Overland Hauling.

Q You were representing Overland Hauling at the time?
A Yes. At that time Mr. Alley's firm represented Overland Hauling. I had not formally taken part in any of the proceedings. I had nothing to do with the drafting of the complaint, the signing or filing of it. This arose some time later, I am not exactly sure when it was.

In talking with Mr. Alley about another matter he mentioned to me that a complaint had been filed and would I like to work with the firm on it, and I said yes, and it evolved from there.

Shortly after we received the letter from Mr. Witt and Mr. Bullard —

Q Were you associated with the Alley firm at the time, or were you in the independent —
A No, I have always been independent of them.

Q I see.
A I have in that capacity enjoyed a very loose relationship, counsel status with them, not from the standpoint of — I guess the real reason behind it was client control on their part.

They didn't want their client to know they had to go outside of their firm to have litigation handled on occasions.

Q Yes.
A The letter from Mr. Witt and Mr. Bullard is dated June 10, 1975.

Shortly after that I went up there apparently to, on June 20th, 1975, for the purpose of finding out what they could tell us with respect to the Overland bombing.

As Your Honor might well suspect, we need a lot of information to proceed in a proceedings such as this.

Q Yes.
A And we proceeded, it proceeded to be very very difficult to pin the responsibility on the local or the international or anybody who would be financially responsible to a judgment.

Q Yes.
A We knew getting a judgment against Mr. Love and Mr. Oglesby or even Mr. Witt or Mr. Bullard, or someone such as that, would be no real problem, but it would be a hollow victory because they had no money.

So I went up there to talk to Mr. Witt and Mr. Bullard to see what, if anything, they had that might help us with the prosecution of the case.

I made it very clear at the outset that, particularly with respect to Mr. Witt, that we had an adverse interest in the party defendant in the litigation and Mr. Bullard did not occupy that status.

I went into some detail to explain to them exactly who I was, exactly what I, who I represented, and exactly why I was there. I was there primarily as an investigator.

I prepared but neglected to have him sign a statement to the effect that they understood that I was there to gather information to be used on behalf of Overland. I got sidetracked and we ran out of time and I had to catch a plane back.

During the course of that conversation they were very emphatic that they did not want to testify in any way, shape or form, unless they were granted immunity, because they both feared further implication of several crimes. I considered that possibility before I went there. I knew there was a real possibility.

In a civil matter we didn't know how much of the Williams' rule type of evidence we could get in. Or in a civil litigation how much they would let in about other bombings throughout. Perhaps a little of it would come out, but certainly not to the extent it would in a criminal case. So I knew that self incrimination was a real problem with them.

And they indicated that they wanted immunity before they would testify. And it was put in the context of testifying or not testifying in the civil case or testifying before a Grand Jury.

And I believe that they asked me at that time would I undertake to represent them to get the immunity. I told them that I would have to think about it, that I saw no problem with me doing that. I looked upon that as purely a collateral matter to the civil litigation.

It is perhaps an oversimplification of it, but I viewed it not much differently than going to pick up a witness from his house and taking him to court to testify. I was creating something whereby they could testify.

Shortly after that whether it was in one of the letters to them or in a telephone conversation I had with Mr. Witt I indicated to them that I advised my client, Overland, and I advised members of the Alley firm — I had to do that — and I had indeed checked with the Ethics Committee of the Hillsborough County Bar Association who assured me there was no ethical conflict, and I didn't see one, and in running it by the Ethics Committee they didn't see one, and in running it by several other trial lawyers whose opinions I valued they didn't see any problem. So I told them I would undertake to get this.

In the context of the June 20th meeting forward, Your Honor, when there was an attack on the attorney-client relationship, I certainly couldn't tell you. I viewed this representation of Mr. Bullard and Mr. Witt to be very

limited in scope and for brief duration.

It was very clear that I, after each appearance — I am convinced that it was before you for Mr. Bullard, now, the more I think about it, and Judge Young for Mr. Witt.

Q Yes.

A And after that, immediately after that I talked to them in the holding cell and told them, I said, I got you what you wanted so as far as my representation goes that is over. I am still going to be contacting you to see what you can do to help me with the prosecution of this litigation.

Q So you viewed your representation of these two people as simply relating to getting the immunity?

A Negotiating with the Government. For example, I got enough information from them to, really to test George Truitt, let him think that these people had enough so that he, that Mark would go out on a limb and get them immunity granted.

I think that had to come from the Department of Justice in Washington.

Q That is right.

A I didn't think they would do it, and I think George was a little bit hesitant at first. He didn't have much faith in their ability or willingness to help him.

So I gave him enough information to test him so they would get the immunity granted for them, because I needed in the civil litigation substantially what Mr. Truitt and Mr. Horowitz needed in the criminal investigation.

By way of explanation I did write several letters to them and received several letters from them. Most of them dealt with my attempts to explain to them what I was doing, the type of immunity they would be granted, and the fact that they had simply two options: one, not to say anything unless and until immunity was granted, and by that I mean to Mr. Horowitz or Mr. Truitt or someone occupying a similar position —

Q Yes.

A — or to talk with them in vague generalities and to convince them they had something worthwhile passing on.

Q Well, after they got immunity did Witt relate to you anything about Parker, Wingate or Burch's involvement in the

bombings of Overland or anyone of these other sites that have been mentioned?

A Judge, I would have to answer that by saying both before, during the exact period of time of the grant of immunity and afterwards I discussed with them primarily Parker's involvement in it and to a limited extent Wingate's, and I know the other gentleman's name came up but I don't have any clear recollection of any one fact being assigned to him.

Q Yes.

A You have to keep in mind I just barely scratched the surface of what Witt and Bullard knew before depositions got cranked up in the civil litigation. We more or less got sidetracked in completing our investigation which would be really a debriefing of them.

Q Did he involve, that is, did Witt involve Parker?

A Absolutely.

Q I mean incriminated Parker.

Did he do that before he got immunity or afterwards?

A I know that he did before, Your Honor, in the context of telling me some of the things he knew that I could tell the Government.

Q Right.

A And I asked him if I could talk to them in very vague generalities about that and he said yes, and he may or may not have given some of the same or similar information to Mr. Truitt and Mr. Horowitz.

I discussed Mr. Parker's involvement with him for lack of a better term on several occasions subsequent to the cry of immunity.

Q Has he always in your discussions of him, with him, involved Parker, that is, incriminated Parker in connection with the —

A Yes.

Q How about Wingate and Burch, what can you recall if anything he has told you about those two?

A Your Honor, I remember Wingate's name coming up. At the time I was primarily concerned with Paul Parker, Local 385, and one step up the ladder to the international.

Q Yes.

A We knew there would be money there, and at Paul Parker's level it would be highly unlikely getting money there.

There would probably be some money at the local level, but in representing my client in the civil litigation and seeking damages, we knew we had to get to the top of the ladder at the international.

From an investigating standpoint I wanted to be sure in my own mind that we had a realistic chance to get up to the top of the ladder.

The plaintiff had invested a lot of time and efforts which had convinced me that had we stopped at Parker or at 385 I might have been constrained to recommend we drop the litigation.

Q How did it come about that Witt was dropped as a party defendant to this lawsuit? Was that in turn for his testimony?

A No, sir. I did not know as a matter of fact until someone represented it to me this morning that he had been dropped.

Q Yes.

A It had been my recommendation all along to Mr. Alley's firm that we drop all individual defendants except the international, who was a party to this litigation — we didn't really care one way or the other about — I can't remember the names right now — and keep Mr. Parker definitely as an individual defendant.

I thought tactically it was better because to me it would be a disastrous result to go through a protracted trial and get a substantial verdict against Love, Oglesby and Witt.

Q Sure.

A I wanted the jury to be in the posture of either giving — if we got money at all, it would be from someone who would be able to respond.

So my decision or my recommendation to them all along was drop Love, Oglesby and Witt.

But to answer your question specifically there was no quid pro quo.

Q In other words, he wasn't dropped in return for his providing testimony or facts or anything of that nature?

A No. It put us in a quandry, Judge. Notwithstanding that there was a firm opinion as to the best way to handle the

lawsuit, I was afraid of his appearance if they didn't drop him. I thought he had no business being a party in the first place. I was afraid of his very appearance.

Q Well, do you know anything about any promises besides anybody acting on behalf of the Government, aside from the immunity, which, of course, is of record, to Bullard or to Witt, in return for their testimony in court in this criminal proceeding?
A In return for any criminal proceeding in this court?

Q Yes.
A I know of none. In generalities I can answer your question because it wasn't certainly the time whether or not an indictment would be returned.

Q Yes.
A With respect to Bullard the only thing that I heard either directly or indirectly is, one, immunity, and two, protection if necessary.

Q Right.
A That protection was discussed in generalities such as, "We'll make sure that nobody gets to you" or "We'll make sure that you are put somewhere where you will be safe."

It was more in the context of getting them out of a hard type place such as Atlanta and putting them in what could be described as a medium security place such as Texarkana.

With respect to Witt, it was immunity, protection, and protection was further defined as change of name and complete relocation.

Q Yes.
A In other words, specifically protection, discussion in some detail to my knowledge with respect to Witt. Beyond that I know of no promises whatsoever.

Q No promises as to parole or anything like that?
A No. As a matter of fact, Witt called me before the last time he went up on parole, and at the time the civil litigation was going on, and I told him he is not to write the parole office because of his appearance during the civil litigation. But to answer your question specifically, to my knowledge none of that was ever discussed, certainly wasn't discussed in my presence nor was it related to me.

Q Would the same be true with regard to Bullard? You mentioned Mr. Bullard's protection and the change of location.
A Right.

Q Do you have any information that would be helpful to the defendants in this case by way of impeaching Witt and Bullard?
A Judge, I honestly believe that I, if I were put on the stand and cross examined I would bolster Witt because I don't consider myself the best lawyer in the world, but I have got some experience, and I tried every trick that I knew of to trip Witt up, deliberately misstating facts he told me, deliberately misrepresenting something he told me in a prior meeting, deliberately extorting the fact of time, and he corrected me.

Q He would maintain a consistent story?
A True or not it was consistent.

Q Well, can you think of anything else I should ask you that I have failed to ask you that you would ask if you were sitting over here? Judge, I am going to object to that question.

No, as I say, if you order me to, I will be happy to show you the file. I don't think there is a thing in there, Judge, that would give them anything except to the extent it would be taken out of context.

Q Well, I am relying on you as an attorney and officer of the court to advise me, and I think I have inquired of you about the pertinent aspects of this thing.

What is the transcript you have got there?
A This is a transcript of my deposition.

Q All right.
A I was just reviewing it in the event I was put on the stand. I am sure they would have a copy of it.

Q All right. That is your subpoena.
A Thank you, sir.

Judge, I will be happy to answer any other questions you have, anything you can think of, but I honestly don't think, because I don't know what the theory of the defense is —

Q Well, let me put it to you this way. Bullard has executed some sworn statements in which he very definitely says that

Parker had nothing to do with the bombing and in which he says that Witt came to him and tried to suborn perjury dealing with not only Parker's involvement but with Wingate's involvement in this thing.

Do you have any documents of that nature?

A I think I know how that came about.

Q How would you assume that came about?

A This is probably 99% conjecture and 1% fact on my part or some close mixture of that, but at the time that I was talking to Witt and Bullard to find out what they knew, as it turned out Witt was protesting his honesty to us and he was at all times feeding Parker everything we talked about.

Every letter I wrote to him for example ended up — never saw it in Parker's hands, but I know that he got it in his attorney's hands.

So I think what I am trying to say is he operated somewhat as a double agent at the time.

Q Right.

A It doesn't surprise me one bit to know he signed affidavits like that.

Q Mr. Charlton, I can't think of anything more to ask you and I would just request that you wait around until I can get back in open court and announce my ruling on these different matters.

A Will that be 1:30?

Q No, that will be 12:30.

A I will be happy to.

Q All right.

A May I be excused now?

Q Sure. Thank you.

A Thank you, Your Honor.

(The in camera proceedings were concluded at 11:50 o'clock a.m.)

CERTIFICATE

STATE OF FLORIDA
COUNTY OF ORANGE

I, DONALD M. SCHMITT, being Official Court Reporter, United States District Court, Middle District of Florida, Orlando, Division, do hereby certify that I was authorized to and did report in shorthand the above and foregoing in camera proceedings and that thereafter my shorthand notes were transcribed and reduced to typewriting under my supervision, and that the pages numbered 3 through 75, inclusive, contain a full, true and correct transcription of my shorthand notes taken therein.

Done and signed this 11 day of February, 1977, in the City of Orlando, County of Orange, State of Florida.

DONALD M. SCHMITT
Official Court Reporter
Middle District of Florida
Orlando Division

APPENDIX F

(Portions of transcript of testimony
presented during trial proceedings)

TRANSCRIPT OF PROCEEDINGS had in the above-styled cause, held on TUESDAY, SEPTEMBER 14, 1976, in the U.S. Federal Building and Courthouse, Orlando, Florida, before the HONORABLE JOHN A. REED, JR., United States District Judge.

THE CLERK: Do you solemnly swear that the testimony you shall give in this cause shall be the truth, the whole truth, nothing but the truth, so help you God?

THE WITNESS: I do.

HERMON FULTON WITT

called as a witness by the Government, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. HORWITZ:

Q Sir, please state your full name and spell your last name for the record.
A My name is Hermon Fulton Witt, W-i-t-t.

Q Sir, are you presently in custody?
A I am presently a federal prisoner in the custody of the United States Marshal's service, Orlando Division.

Q Are you serving any sentence at this time?
A Sir?

Q What sentence are you serving?
A *My present sentence is a ten year sentence, 42A2 sentence.*

Q Meaning what? Meaning what?
A *My understanding that it means that I am eligible for parole any time the Parole Board would see fit to parole me.*

Q Of what charge or charges were you convicted?
A I was convicted of multiple charges in participating in some bombings.

Q And what was your original sentence for that?
A The original sentence was, it was 20 years is the way it ended, the total.

Q The total. There were various counts that total 20 years?
A Yes.

Q Now, *have you been granted immunity from further prosecution to testify here today?*
A *I have, sir.*

Q And you recall when it was that you were granted that immunity?
A If my recollection serves me correct, sir, it was in the, I believe, the fore part of November of 1975.

Q In addition to being granted immunity has the Government made any other promises to you to testify here today?
A No, sir, other than my safety, safe protection.

Q Did the Government also agree to advise anyone whom you desired as to the extent of your cooperation?
A Yes, sir.

Q Drawing your attention now, sir, to February of 1971, how were you employed at that time?
A I was an Assistant Business Agent.

Q Where?
A For the Teamsters Local 385 in Orlando, Florida.

Q Here in Orange County?
A Yes, sir.

Q How long were you employed in that capacity?
A From August 1 of 1969 until May 8 of 1964, I believe.

Q You say '64?
A I am sorry, 1974.

Q And were you taken into custody on that date?
A I was, sir.

Q Who hired you for that job as Assistant Business Agent?
A Mr. Paul Parker.

Q If Mr. Parker were present in the courtroom today could you identify him?

APPENDIX G

(Portions of closing argument of federal prosecutor)

As I mentioned earlier closing arguments are not evidence in the case, nor do they represent the law of the case, but they do represent the views of the attorneys as to what the evidence shows and how the evidence relates to the applicable principles of law which I will give you in the Jury instructions.

So I would ask that you pay the same close attention to the attorneys as you have paid throughout the trial.

Mr. Horwitz.

GOVERNMENT'S CLOSING ARGUMENT

MR. HORWITZ: Thank you, Judge.

Good morning, Ladies and Gentlemen. It's been a long two weeks and I have noticed that during the course of each and every day, even though sometimes it got late in the afternoon, you all were doing your job, paying attention, and that's the way it has got to be, and I want to thank you for doing it.

It is almost going to be time for you to go back and deliberate and do your job, the remainder of your job on this case.

But before you do that, the attorneys get to give you what is known as a closing argument. As the Judge explained to you it's the attorneys interpretation of what the evidence is and how it relates to the charges and the law.

And now, when the attorneys finish with their closing arguments the Judge will then instruct you on what the law is, then, the case will be yours to deliberate on. So, if you will, just bear with us a little bit longer, pay attention to us a little bit longer and we'll appreciate it.

Now, as I told you in my opening statement what I said to you then wasn't evidence and the same thing goes for now.

What I tell you now is not evidence and if my memory of the evidence in any way differs from yours, rely on your memory with the understanding that in no way am I attempting to misled you.

During the course of the trial the attorneys are busy doing a lot of things, as you saw making opening statements, taking notes, and sometimes it is possible to not catch something or catch it the wrong way. Believe me, it is not intentional, and if my memory differs from yours, rely on yours.

What is this case? This case starts with the indictment. These are the charges here, charges that these defendants are on trial for.

You will have a copy of the indictment with you when you deliberate and it contains three charges or three counts.

In *Count One* Mr. Parker is charged with inducing, procuring and causing, counseling others to maliciously damage a building effecting interstate commerce.

That building was located at the premises of *Overland Hauling Company*. It was damaged as charged on or about *April 16, 1971.*

The Judge will instruct you on what the term aiding and abetting means under the federal laws, and how a person need not commit every part of a crime or commit the acts of a crime to be guilty of that crime.

That aiding and abetting in this sense can mean that a person has caused a crime to be done, has caused someone else to commit a crime, has induced someone else to commit a crime, has procured someone else to commit a crime.

And he will instruct you on what it means to damage a building, that is, effecting interstate commerce, and what interstate commerce means, and what explosives mean, and how that includes dynamite and fuses and detonators.

Count Two of the indictment charges again Mr. Parker with inducing, procuring, causing to be done, aiding and abetting others to *knowingly possess a firearm, to wit, a destructive device, that was not registered in the National Firearms Registration and Transfer Record.*

The Judge will explain to you what a destructive device is and how it can be a combination of parts designed as an explosive bomb.

He will also instruct you on what possession means and what constructive possession means, and how one need not actually have it in his hand but can have power to exercise dominion and control over it, again aiding and abetting.

Finally Count Three charges both Mr. Parker and Mr. Wingate with conspiracy, and the Judge will instruct you on what conspiracy is, how it is an agreement to commit an offense against the laws of the United States.

However, it doesn't have to be a formal agreement, it doesn't have to be an agreement in writing, an agreement in which all specific details of the offense are mapped out and definitely and specifically agreed to, *but it is an agreement between two or more people being an implicit agreement, a*

joint effect, a joint effort to do and commit a crime.

The indictment contains several overt acts and several objectives of the conspiracy.

You will be instructed that to sustain a conviction that one of the, *at least one of these overt acts must have been done, a knowing effort to accomplish one of the objectives of the conspiracy, one of the illegal objectives of the conspiracy.*

However, an overt act itself need not be in and of itself an unlawful act, but if that act furthers the unlawful objective of the conspiracy, then, you can base a conviction on that type of action.

How, what was the evidence? What did the evidence show? At this time I want to go over with you, go over in capsule form what we heard for the last two weeks.

You heard from Hermon Witt who told you how he was a convicted felon, convicted of these bombing incidents.

How he has been granted *immunity*. How he has been promised protection. How he has been told that he would, *a letter would be written advising* whoever he wanted as to what he did if he cooperated, what he did.

Now he came to Florida in 1969 and he was hired by Paul Parker as a business agent.

And while working there he related how a strike started at Overland and Keystone, and during this time frame, at or about the time that this strike started, several conversations ensued between himself and Paul Parker concerning dynamite, concerning dynamite, concerning knowledge about dynamite, concerning getting Ronnie Witt who knew about dynamite to help build some bombs and do some bombings.

But Ronnie Witt refused — wanted to know what was in it for him. And, so, when Witt asked Parker about this, Parker's response was union patriotism and a good job at Disney World, that should have been enough for him. Ronnie wouldn't do it but he would make the bombs.

Then he told you about a conversation where Bullard was present in which Parker designated that he wanted certain companies bombed, Overland, Keystone, Zahna, wanted it to rain dynamite on those companies.

And how a telephone call was made down to Miami and how Witt traveled down to Miami and picked up some dynamite and returned from Miami with the dynamite, went into the office of the local Teamsters union and showed Parker the dynamite.

Parker told him to get out of the that Bullard would go up to South Carolina and get the dynamite.

And in this time period, or after Bullard's return, they were, they realized they did not have enough fuse, and this was related by Witt to Parker, and Parker contacted Wingate.

Then there were a series of contacts between Witt and Wingate in which there were phone calls and meetings asking for fuse.

Then Wingate got the fuse for them, and then there was another contact between them, seeing if they would blow up, if Witt would get the Municipal Justice Building blown up.

Witt then checked with Parker to see if he would do it, if they could do it, and how it should be done with this, how the proceeds which would be, what should be done with the proceeds.

Of the $800 it was agreed that Parker would take $400 and Witt would get $200 and they would see if they could get Bullard to do it for $200.

Witt approached Bullard, and Bullard that Bullard would go up to South Carolina and get the dynamite.

And in this time period, or after Bullard's return, they were, they realized they did not have enough fuse, and this was related by Witt to Parker, and Parker contacted Wingate.

Then there were a series of contacts between Witt and Wingate in which there were phone calls and meetings asking for fuse.

Then Wingate got the fuse for them, and then there was another contact between them, seeing if they would blow up, if Witt would get the Municipal Justice Building blown up.

Witt then checked with Parker to see if he would do it, if they could do it, and how it should be done with this, how the proceeds which would be, what should be done with the proceeds.

Of the $800 it was agreed that Parker would take $400 and Witt would get $200 and they would see if they could get Bullard to do it for $200.

Witt approached Bullard, and Bullard then did check it out, and he did it, he did it with *Ashley Burch*.

Then you also heard about the April 4th meeting, the April 4th meeting where Parker told Witt to go over to the Ramada Inn and deliver some dynamite bombs, and how

Witt did go over there and deliver them to Bullard and Brown.

During this time period Parker complained after the second bombings at Keystone that there wasn't enough damage done there. Also he said, "Let's get Overland bombed," and he contacted Bud Love, Witt contacted Bud Love and in fact it was bombed.

Then on cross examination you heard the testimony there about letters, about his parole expectations, about affidavits, letters to his wife, expressions of innocence.

Then you heard from Charles Bullard also convicted of bombing. He told you how he knew Paul Parker, how he met Paul Parker several years ago and one time had gone out and wrecked a truck for him.

APPENDIX H

(Impeaching and exculpatory material that came into possession of counsel for Petitioner after conclusion of Petitioner's trial)

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

CASE NO. 76-62-Orl.-Cr.-R

UNITED STATES OF AMERICA,
Plaintiff,

vs.

PAUL HENRY PARKER,
Defendant.

MOTION FOR NEW TRIAL BASED UPON NEWLY DISCOVERED EVIDENCE

PAUL HENRY PARKER, by his undersigned attorneys, files this Motion for New Trial in accordance with the provisions of Rule 33, Federal Rules of Criminal Procedure, and moves this Court to order that the jury verdicts of guilty be set aside and a new trial be granted to the defendant on all counts based upon the newly discovered exculpatory matter that has just come to the attention of the defendant's undersigned attorneys. The defendant submits the following in support of this motion:

1. The defendant, PAUL HENRY PARKER, was substantially prejudiced and deprived of a fair trial by reason of the following circumstances:

A. Counsel for the defendant PARKER, prior to the inception of the jury trial that resulted in his conviction, formally requested in writing the production of all exculpatory matter in accordance with the authority of *Brady v. Maryland*, 373 U.S. 83 (1963) and its progeny, and during the course of the trial, by agreement of trial counsel and government counsel, the government was going to produce any further or other exculpatory material that had not theretofore been produced pre-trial, and all *Jenks Act* (Title 18, § 3500, U.S.C.) material.

B. The government presented in its case in chief, as witnesses against the defendant PARKER, Herman F. Witt, Charles W. Bullard and Curtis Leroy Love, and in rebuttal Mr. Love was recalled and his wife, Ruth Love, was also called as a rebuttal witness. Each of the aforesaid witnesses testified to incriminating matters relating to PAUL HENRY PARKER and the pending charges on trial, and further testified that the only promises made or extended to Messrs. Witt, Bullard and Love, and to Mrs. Love to be communicated to Mr. Love, was the grant of immunity from further prosecution and protection against some purported threats of violence to themselves and their families. The government also called as a witness in its case in chief, George R. Truitt, who was the agent in charge of the investigation of the incidents described in the Indictment herein, having been stationed at Orlando, Florida as a Special Agent employed by the United States Treasury Department, Bureau of Alcohol, Tobacco Tax & Firearms. Mr. Truitt testified on direct examination that there were only two promises made to the prospective government witnesses, "one regarding immunity and one regarding protection if they did ever choose to tell us, to ever talk to us."

C. At the conclusion of Mr. Truitt's testimony, counsel requested that all *Brady* and *Jenks Act* material be produced, at which time the Court made inquiry of the government counsel regarding the existence of *Brady* material, and Mark L. Horwitz, Assistant United States Attorney, stated that he was not in possession of any *Brady* material, and all produceable *Jenks Act* material had previously been produced.

D. The defendant PARKER and THOMAS A. LARKIN were charged with several offenses involving the subject matter of the referenced charges. As a result of pretrial proceedings, the defendant PARKER'S trial was severed and the defendant LARKIN proceeded to trial before a jury in Orlando, Florida. The witnesses hereinabove described and enumerated appeared as witnesses in behalf of the government in the LARKIN trial, and at the conclusion of that trial the jury returned verdicts of not guilty on the substantive offenses that he was charged with and were unable to unanimously agree on the conspiracy offense that he was charged with. Annexed

hereto as Exhibit "A" and made a part hereof for all purposes is a true and correct copy of the Indictment returned in this case and the Indictment returned in the PARKER-LARKIN case.

E. Annexed hereto are items, documents and things produced and provided to counsel for THOMAS A. LARKIN during the course of the LARKIN trial that were never produced, known to or made available to counsel for the defendant PARKER during the course of the trial in the referenced case, which documents are clearly exculpatory, amongst other things to establish the dependency of the government witness, Curtis Leroy Love and his wife, on the government agents, and all fall within the ambit of documents to be produced under the Jenks Act:

(1) Report of interview dated April 16, 1971 of Curtis Leroy Love by George R. Truitt and others;
(2) Copy of a letter to George R. Truitt from Mr. Love dated February 3, 1972;
(3) Copy of a letter from Mr. Love to George R. Truitt dated August 4, 1972;
(4) Copy of a letter from Mr. Love to George R. Truitt, dated September 6, 1972;
(5) None of the letters from Mr. Truitt to Mr. Love referred to in the aforesaid exhibits were ever produced to any counsel;
(6) Unsigned letter from George R. Truitt to Mr. Love and Alto Oglesby, dated May 30, 1973;
(7) Copy of a letter from George R. Truitt to Mr. Love and Mr. Oglesby dated July 27, 1973.

F. Defendant PARKER'S trial in these proceedings started on September 14, 1976 and concluded on September 25, 1976. The following documents that show the true nature of the relationship between the government and their key prosecution witnesses were never produced, either as *Brady* material or *Jenks Act* material, to counsel for Mr. PARKER during the course of the trial in this matter:

(8) Copy of letter from Herman F. Witt to Mark L. Horwitz dated March 31, 1976.

G. The following documents are all dated after the

conclusion of the PARKER trial in this cause but clearly show the true nature of the relationship between the key prosecution witnesses and the government prosecutor in this cause, which is substantially inconsistent with the representations made at the PARKER trial regarding the relationship between government counsel and said witnesses:

(9) Letter from Mark L. Horwitz to Mr. Crawford dated October 29, 1976 relating to Herman F. Witt;
(10) Letter from Mark L. Horwitz to Mr. Crawford dated October 29, 1976 relating to Charles W. Bullard;
(11) Letter from Mr. Horwitz to Mr. Chait, dated January 13, 1977, relating to Mr. Witt;
(12) Letter from Mr. Horwitz to Mr. Chait, dated April 21, 1977, relating to Mr. Bullard;
(13) Letter from Mr. Witt to Mr. Horwitz dated June 22, 1977;
(14) Letter from Mr. Horwitz to Mr. Couchman relating to Mr. Witt, dated July 6, 1977;
(15) Letter from Mr. Witt to Mr. Horwitz dated July 11, 1977;
(16) Letter from Charles W. Bullard dated July 11, 1977.
(17) Letter from Charles W. Bullard to Mr. Carlson dated September 8, 1977 (the Court's attention is particularly directed to the 4th and 5th paragraphs on the 1st page of that two page letter and the 3rd, 4th and last two paragraphs on the second page of that letter);
(18) Letter from Mr. Bullard to Mr. Brumley, dated November 10, 1977.

H. The defendant PARKER subpoenaed Scott Charlton, Esq., a witness to be called in his behalf and to produce certain documents. The Court held an *in camera* examination of Mr. Charlton, and although the following documents were significant to the defense of defendant PARKER in this cause, they were never required to be produced to trial counsel for the defendant PARKER:

(19) Letter from Mr. Charlton to Mr. Witt dated June 26, 1975;

(20) Letter from Mr. Charlton to Mr. Witt dated July 11, 1975;
(21) Letter from Mr. Charlton to Mr. Alley dated February 24, 1976;
(22) Letter from Mr. Alley to Mr. Charlton dated February 26, 1976, and check dated July 27, 1976.

I. The inception of the relationship between the United States of America and Curtis Leroy Love as a cooperating witness is reflected by the copies of the correspondence between Mr. Love and members of his family. It is particularly significant to note that in Mr. Love's letter of October 1, 1971, he complains of being incarcerated for too long a period of time, goes on to say that his family members should contact the federal officials "...if he would like to know anything that I'm the one to talk with. I don't think they have a case to start with but tell to talk with me anyway." In Mr. Love's letter of October 9, 1971, he refers to the fact that the government attorney cannot speak to him but the other man can (the other man he is referring to is Special Agent Truitt), and he urges that the meeting take place immediately. Mr. Love goes on to say, "I have a lot of time and don't want to waste it waiting for someone to come see me. So you can tell him that for me. They want to get a lot of people in here that don't belong here." In Mr. Love's letter of October 22, 1971, amongst other things he states that: "So I hope they come to see me. To see what they have to offer. Not much they want something for nothing. But you can bet they won't get something for nothing. I have been going over my transcript all day and have found enough to go back to court on. And I know they don't want us back in court. They know they will lose the case if we do. So I hope they will bring us back to Orlando. You said we could get five more years if we go to court for Jim. Tell them to bring us back if that is what they want. ... Pete, I know these people and when they don't have anything they want to make a deal, I know. I have been in court and I know how they will do you. I will be looking for them next week. Hope they come. If they wait too long tell them there is no use to come up." The letters in question are:

(23) Letter from Mr. Love to his Mother, Dad and Wayne, dated October 1, 1971;
(24) Letter from Mr. Love to Pete, dated October 22, 1971;

(25) Letter from Mr. Love to Mother, Dad and Wayne, dated November 9, 1971.

J. The pertinent portions of the direct examination of Mr. Love during the course of the PARKER trial is annexed hereto. That testimony is irreconcilable with the report of interview between Mr. Truitt and Mr. Love, dated April 17, 1971.

K. The pertinent portion of the testimony of Special Agent George Truitt in the referenced case regarding the circumstances under which he initially contacted and met Mr. Witt and Mr. Bullard is annexed hereto.

L. The testimony of Attorney Scott Charlton, taken before the court in an *in camera* proceeding, is annexed hereto. The court never reviewed the correspondence between Mr. Charlton and his alleged clients, particularly as it related to the *quid pro quo* of his clients for testifying as a government witness. Specifically, Mr. Charlton told the court that there was no agreement with the government officials regarding the parole of any of his clients or aid or assistance in connection therewith, which testimony is specifically contradicted by Mr. Charlton's letter dated July 12, 1965, which has previously been referred to above. Mr. Charlton also advised the court that he did not have any information that would be helpful to the defendants regarding Mr. Witt and Mr. Bullard, and the aforesaid is specifically contradicted by the correspondence previously identified herein and made a part hereof.

2. The failure of the government to produce the aforesaid documents in question and to fully disclose the nature and extent of the relationship and promises exchanged between the government and its agents and the key prosecution witnesses in this cause has substantially prejudiced the defendant PARKER and precluded him from getting a fair trial in this cause.

WHEREFORE, defendant PARKER prays that this Court, after remand from the United States Court of Appeals for the Fifth Circuit of the pending appeals in this matter, hold an evidentiary hearing in this cause, and at the conclusion of same grant to the defendant, PAUL HENRY PARKER, a new trial in this matter.

LEVINE, FREEDMAN, HIRSCH
& LEVINSON
Professional Association

By: _____
ARNOLD D. LEVINE
725 East Kennedy Boulevard
Tampa, Florida 33602
Attorney for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion for New Trial has been furnished, by mail, to the United States Attorney's Office, Post Office Box 2593, Orlando, Florida 32802, this 7th day of June, 1978.

_____
ATTORNEY

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

No. 76-62, Orl-Cr-Y
[18 USC 2, 371, 842, 842(a)(3)(A), 844, 844(i); 26 USC 5861, 5861(d), 5861(e), 5871]

UNTED STATES OF AMERICA

v.

DAVID W. WINGATE
ASHLEY B. BURCH, JR.

The Grand Jury charges:

COUNT ONE

That on or about April 16, 1971 at Ocoee, Orange County, Florida, in the Middle District of Florida,

PAUL HENRY PARKER

did aid, abet, counsel, command, induce and procure others herein not named to maliciously damage, by means of an explosive, a building used in an activity affecting interstate commerce, that is, a building located on the premises of the Overland Hauling Company, Ocoee, Florida, and used by said company in conducting its business; in violation of Title 18, United States Code, Section 844(i) and 2.

COUNT TWO

That on or about April 16, 1971 at Ocoee, Orange County, Florida, in the Middle District of Florida,

PAUL HENRY PARKER

did aid, abet, counsel, command, induce and procure others to knowingly possess a firearm, to wit, a destructive device, which had not been registered in the National Firearms Registration

and Transfer Record as required by Title 26, United States Code, Section 5841, said possession being in violation of Title 26, United States Code, Sections 5861(d) and 5871 and Title 18, United States Code, Section 2.

COUNT THREE

That from on or about February 25, 1971 and continuously thereafter, up to and continuing through April 16, 1971 in the Middle District of Florida, and elsewhere,

PAUL HENRY PARKER
DAVID W. WINGATE
and ASHLEY B. BURCH, JR.

did wilfully and unlawfully conspire, combine, confederate, cooperate and agree together and with each other, and with other persons to commit certain offenses against the laws of the United States of America pertaining to the illicit, unlawful, and malicious manufacture, transportation, transfer, possession and use of destructive devices and explosives, more particularly, Title 18, United States Code, Sections 842 and 844 and Title 26, United States Code, Section 5861, namely:

(a) To unlawfully receive and possess firearms, to wit, destructive devices, which were not registered in the National Firearms Registration and Transfer Record; in violation of Title 26, United States Code, Section 5861(d).

(b) To unlawfully transport, ship and cause to be transported and shipped in interstate commerce explosive materials without being a licensee or permittee under the provisions of Chapter 40, Title 18, United States Code; in violation of Title 18, United States Code, Section 842(a)(3)(A).

(c) To unlawfully transfer firearms, to wit, destructive devices; in violation of Title 26, United States Code, Section 5861(e).

(d) To maliciously damage and destroy by means of an explosive bomb, buildings, motor vehicles, real and personal property used in interstate commerce and in activities affecting interstate commerce; in violation of Title 18, United States Code, Section 844(i); and in furtherance of the said conspiracy and in order to effect the objects thereof in an effort to subdue,

overcome and destroy resistance to the organized labor movement in Central Florida, the defendants and others committed among other overt acts the following overt acts:

Overt Acts

(1) On or about February 25, 1971, at the Teamsters Union Hall, Local 385, 1339 West Washington Street, Orlando, Florida, Paul Henry Parker instructed Herman F. Witt to destroy, by the use of explosives, Keystone Trucking Company, Overland Hauling Company and Jahna Sand Mine and in so doing to cause it to rain dynamite on said companies.

(2) Sometime on or about February 28, 1971 at Teamsters Union Hall, Local 385, 1339 West Washington Street, Orlando, Florida, Paul Henry Parker instructed Herman F. Witt to travel to the Miami, Florida area to obtain dynamite, blasting caps and fusing material.

(3) Herman F. Witt travelled to Miami, Florida on or about March 1, 1971 and there obtained a quantity of blasting caps dynamite and fusing material.

(4) That on or about March 1, 1971 at or near Killarney, Orange County, Florida, Herman F. Witt and Curtis Leroy Love had a conversation about bombing a number of business firms, namely, Keystone Trucking Company, Overland Hauling Company and Jahna Sand Mine owned by Jahna Industries, Inc.

(5) During the first week of March, 1971 at or near Casselberry, Florida, Herman F. Witt made a destructive device from the dynamite, blasting caps and fusing material obtained at the direction of Paul Henry Parker.

(6) That during the first week of March, 1971, at or near Killarney, Orange County, Florida, Charles William Bullard and Johnny Mack Brown had a conversation about bombing the Jahna Sand Mine property.

(7) That during the first week of March, 1971, at or near Killarney, Orange County, Florida, Charles William Bullard and Johnny Mack Brown possessed and stored a quantity of dynamite bombs at the residence of the said Johnny Mack Brown.

(8) That on or about March 7, 1971, in Lake County, Florida, Charles William Bullard and Johnny Mack Brown placed and ignited a dynamite bomb on a dredging machine owned by Jahna Industries, Inc.

(9) That on or about March 9, 1971, Johnny Mack Brown and Charles William Bullard did travel to Keystone Trucking Company, located in Killarney, Orange County, Florida.

(10) That on or about March 9, 1971, at Killarney, Orange County, Florida, Charles William Bullard and Johnny Mack Brown ignited and hurled a dynamite bomb onto the premises of the Keystone Trucking Company.

(11) That on or about March 18, 1971 at Teamsters Union Hall, Local 385, 1339 West Washington Street, Orlando, Florida Paul Henry Parker advised Herman F. Witt to contact David W. Wingate and obtain fusing materials for dynamite bombs.

(12) That Herman F. Witt on or about March 18, 1971, met David W. Wingate in Orlando, Florida and obtained from David W. Wingate fusing material for a dynamite bomb.

(13) That on or about March 18, 1971, David W. Wingate requested Herman F. Witt to arrange for a dynamite bomb to be placed upon the premises of the construction site of the Orlando Municipal Justice Building in Orlando, Orange County, Florida.

(14) During said conversation, David W. Wingate offered to pay $800.00 for said destruction.

(15) That on or about March 18, 1971, Charles William Bullard and Ashley B. Burch, Jr., placed a dynamite bomb in the construction site of the Orlando Municipal Justice Building and detonated said bomb.

(16) Within a few days after the bombing described in overt act number 15, David W. Wingate did pay Herman F. Witt $800.00 and Herman F. Witt divided said sum among himself, Paul Henry Parker and Charles William Bullard.

(17) That during the latter part of March, 1971, in Cheraw, Chesterfield County, South Carolina, Charles William

Bullard obtained two cases of dynamite, a quantity of blasting caps and fuse.

(18) That during the latter part of March, 1971, in Cheraw, Chesterfield County, South Carolina, Charles William Bullard, Johnny Mack Brown and Mary Ann Brown, transported two cases of dynamite, a quantity of blasting caps and fuse from Cheraw, Chesterfield County, South Carolina to Orlando, Orange County, Florida.

(19) That during the latter part of March 1971, at or near the Overland Hauling Company, Ocoee, Orange County, Florida, Charles William Bullard and Johnny Mack Brown delivered a dynamite bomb to Kyle Elzie Duvall.

(20) That on or about April 4, 1971 at Killarney, Orange County, Florida, Charles William Bullard and Curtis Leroy Love ignited and hurled two dynamite bombs onto the premises of the Keystone Trucking Company.

(21) That on or about April 4, 1971, in Orlando, Orange County, Florida, Herman F. Witt at the direction of Paul Henry Parker delivered a quantity of dynamite bombs to Johnny Mack Brown and Curtis Leroy Love.

(22) Sometime in early April 1971, Herman F. Witt directed Curtis Leroy Love to bomb Overland Hauling Company, Ocoee, Florida.

(23) That on or about April 16, 1971, Curtis Leroy Love and Alto Oglesby did travel to Overland Hauling Company, Ocoee, Orange County, Florida in possession of a dynamite bomb.

(24) That on or about April 16, 1971 at Ocoee, Orange County, Florida, Curtis Leroy Love ignited and hurled a dynamite bomb onto the roof of the Overland Hauling Company office building.

All in violation of Title 18, United States Code, Section 371.

A TRUE BILL

_____
Foreman

JOHN L. BRIGGS
United States Attorney
By_____
Assistant United States Attorney

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

No. 77-75, Orl-Cr-R
[18 USC 371 - 5 yrs and/or $10,000;
29 USC 501(c) - 5 yrs and/or $10,000;
29 USC 439(b) - 1 yr and/or $10,000;
29 USC 439(c) - 1 yr and/or $10,000]

UNITED STATES OF AMERICA

v.

PAUL HENRY PARKER
THOMAS A. LARKIN

The Grand Jury charges:

COUNT ONE

That from on or about *February 1971, and continuously* thereafter up to and including the date of this indictment, in the Middle District of Florida,

PAUL HENRY PARKER,
THOMAS A. LARKIN,

and others, presently known and unknown to the grand jury, *did wilfully* and unlawfully conspire, combine, confederate, cooperate and agree together to commit certain offenses against the laws of the United States of America pertaining to: *the obstruction of criminal investigations*, in violation of Title 18, United States Code, Section 1510; *and obstruction of the due administration of justice*, in violation of Title 18, United States Code, Section 1503; and *the subornation of perjury*, in violation of Title 18, United States Code, Section 1622; and in order to finance said unlawful objectives, conclusion, the conspirators *did also embezzle funds of a labor organization*, in violation of Title 29, United States Code, Section 501(c); and *in so doing did falsify the records of a labor organization*, in violation of Title 29, United States Code, Section 439(c); namely:

(A) The conspirators did wilfully and knowingly endeavor to obstruct, delay and prevent witnesses from *communicating information relating to violations of criminal statutes of the United States pertaining to the possession and use of explosives and destructive devices, to Special Agents of the United States Department of Treasury*, Bureau of Alcohol, Tobacco, and Firearms, by means of intimidation, bribery and threats of force; in violation of Title 18, United States Code, Section 1510.

(B) The conspirators did corruptly endeavor to influence, obstruct and impede the due administration of justice *before grand juries* in the United States District Court for the Middle District of Florida and before the United States District Court for the Middle District of Florida during the trials of *United States* v. *Love and Oglesby*, No. 71-33-Orl-Cr., *United States* v. *Witt and Bullard*, No. 72-68-Orl-Cr., *United States* v. *Parker*, No. 76-62-Orl-Cr-Y., *in that the defendants herein did urge, advise and persuade witnesses to give false testimony; in violation of Title 18*, United States Code, Section 1503.

(C) *The conspirators did wilfully suborn*, instigate, induce and procure witnesses to testify falsely in proceedings before the District Court and Federal Grand Juries for the Middle District of Florida *concerning the involvement of Paul Henry Parker and others in the possession and use of explosives and destructive devices*, and the embezzlement of union funds and falsification of union records; in violation of Title 18, United States Code, Section 1622.

(D) That Paul Henry Parker, a co-conspirator herein, while an officer, that is President of Teamsters, Chauffeurs, Warehousemen and Helpers Local Union No. 385, and Thomas A. Larkin did embezzle, steal and unlawfully and wilfully abstract and convert to their own use and for the use of others, moneys, funds, securities, property and other assets of a labor organization, to wit, Teamsters, Chauffeurs, Warehousemen and Helpers Local Union No. 385, a labor organization engaged in an industry affecting commerce as defined by Sections 402(i) and 402(j) of Title 29, United States Code; in violation of Title 29, United States Code, Section 501(c).

(E) That Paul Henry Parker, while an officer, that is President of Teamsters, Chauffeurs, Warehousemen and Helpers Local Union No. 385, a labor organization engaged in an industry affecting commerce within the meaning of Sections 402(i) and 402(j) of Title 29, United States Code, and Thomas A. Larkin, co-conspirator herein, did unlawfully and wilfully make and cause to be made false entries in the financial records of said labor organization, required to be kept by Sections 436 and 431(b) of Title 29, United States Code, in order to obtain monies from the bank account of the Teamsters, Chauffeurs, Warehousemen and Helpers Local Union No. 385; in violation of Title 29, United States Code, Section 439(c).

In furtherance of said conspiracy and in order to effect the objects thereof, the defendants, and others, committed among other overt acts, the following overt acts:

OVERT ACTS

(1) In the latter part of February 1971, in the Middle District of Florida, Paul Henry Parker told Herman F. Witt that if anyone *was* apprehended for bombing non-union contractors; that their attorney's fees would be paid for, and their families taken care of, but that Teamsters Local Union No. 385 and Paul Parker had to be kept out of trouble at all costs.

(2) On April 17, 1971, Curtis Leroy Love and Alto Oglesby were released from custody on charges of bombing Overland Hauling upon a bond of $50,000.

(3) On April 19, 1971, Paul Henry Parker told Curtis Leroy Love that he (Love) had to return to jail because Teamsters Local Union No. 385 could not expend its funds for his bond.

(4) In the latter part of May 1971 Thomas A. Larkin told Curtis Leroy Love that he (Larkin) had been hired by Paul Henry Parker to represent Curtis Leroy Love, but that this fact should be kept secret.

(5) In the latter part of May or early June 1971, Paul Henry Parker told Curtis Leroy Love that Teamsters Local Union No. 385 would pay his attorney's fees but to keept quiet about that fact. Paul Henry Parker also told Curtis Leroy Love

that if he (Love) was convicted, Teamsters Local Union No. 385 would take care of his wife and children.

(6) In early June 1971, Thomas A. Larkin instructed Curtis Leroy Love, Alto Oglesby and Patsy Love to give false testimony under oath concerning their involvement and knowledge of the bombing of Overland Hauling in the trial of Curtis Leroy Love and Alto Oglesby.

(7) In early May and June of 1971, Paul Henry Parker and Thomas A. Larkin instructed Curtis Leroy Love to "keep your mouth shut and your bowels open" in reference to his involvement in the Overland Hauling bombing.

(8) During his trial *in June 1971* on charges of bombing Overland Hauling Company, Curtis Leroy Love lied under oath as directed by Thomas A. Larkin concerning his involvement in the *bombing of Overland Hauling Company.*

(9) Paul Henry Parker caused payments of $115 per week to be made out of the funds of Teamsters Local Union No. 385 to Patsy Love from June 1971 through March 1972.

(10) In September or October 1971, Thomas A. Larkin told Patsy Love that she would continue to receive the weekly payments referred to in Overt Act number 9, as long as she did not cooperate with the federal government by advising government agents of her knowledge of the bombings that Curtis Leroy Love had been convicted of.

(11) On or about March 30, 1972, Paul Henry Parker caused the payments to Patsy Love during 1971, referred to and described in Overt Acts number 9 and 10, to be reported solely as "Benevolent help to Patsy Love" in the Teamsters Local Union No. 385 annual financial report for calendar year 1971 which was filed with the Secretary of Labor.

(12) On or about February 15, 1973, in response to a specific inquiry from a representative of the Secretary of Labor, Paul Henry Parker caused the following response to be made:

> "Mrs. Love is the wife of a member of Local Union No. 385 who has 2 small children and was not trained to earn a living. Her husband was put in jail and the union, with the unanimous approval of the Executive Board and the Membership, assisted her financially until she could earn enough to provide for the family."

(13) On or about February 16, 1973, Paul Henry Parker again caused the payments to Patsy Love during 1971 referred to and described in Overt Acts number 9 and 10, to be reported solely as "Benevolent help to Patsy Love" in the Teamsters Local Union No. 385 amended annual financial report for calendar year 1971, which was filed with the Secretary of Labor.

(14) On or about March 30, 1973, Paul Henry Parker caused the payments to Patsy Love during 1972, referred to and described in Overt Acts number 9 and 10, to be reported solely as "Benevolent help to Patsy Love" in the Teamsters Local Union No. 385 annual financial report for calendar year 1972, which was filed with the Secretary of Labor.

(15) Sometime during September, October or November, 1971, the exact date unknown, Paul Henry Parker told Patsy Love that he had agreed to pay Thomas A. Larkin $25,000 for defending Curtis Leroy Love.

(16) On or about August 3, 1971, Paul Henry Parker caused the payment of $850 from the funds of Teamsters Local Union No. 385 to Richard Mason Johnson for work not in fact performed by Richard Mason Johnson.

(17) On or about August 3, 1971, Richard Mason Johnson returned proceeds of the payment referred to in Overt Act number 16 to Paul Henry Parker.

(18) On or about September 1, 1971, Paul Henry Parker caused the payment of $975 from the funds of Teamsters Local Union No. 385 to Richard Mason Johnson for work not in fact performed by Richard Mason Johnson.

(19) On or about September 1, 1971, Richard Mason Johnson returned proceeds of the payment referred to in Overt Act number 18 to Paul Henry Parker.

(20) On or about October 1, 1971, Paul Henry Parker caused the payment of $975 from the funds of Teamsters Local Union No. 385 to Richard Mason Johnson for work not in fact performed by Richard Mason Johnson.

(21) On or about October 1, 1971, Richard Mason John-

son returned proceeds of the payment referred to in Overt Act number 20 to Paul Henry Parker.

(22) On or about October 21, 1971, Paul Henry Parker caused the payment of $975 from the funds of Teamsters Local Union No. 385 to Richard Mason Johnson for work not in fact performed by Richard Mason Johnson.

(23) On or about October 21, 1971, Richard Mason Johnson returned proceeds of the payment referred to in Overt Act number 22 to Paul Henry Parker.

(24) On or about December 14, 1971, Paul Henry Parker caused the payment of $1,262 from the funds of Teamsters Local Union No. 385 to Richard Mason Johnson for work not in fact performed by Richard Mason Johnson.

(25) On or about December 14, 1971, Richard Mason Johnson returned proceeds of the payment referred to in Overt Act number 24 to Paul Henry Parker.

(26) On or about February 4, 1972, Paul Henry Parker caused the payment of $1,643 from the funds of Teamsters Local Union No. 385 to Richard Mason Johnson for work not in fact performed by Richard Mason Johnson.

(27) On or about February 4, 1972, Richard Mason Johnson returned proceeds of the payment referred to in Overt Act number 26 to Paul Henry Parker.

(28) On or about December 13, 1972, Paul Henry Parker caused the payment of $675 from the funds of Teamsters Local Union No. 385 to Richard Mason Johnson for work not in fact performed by Richard Mason Johnson.

(29) On or about December 13, 1972, Richard Mason Johnson returned proceeds of the payment referred to in Overt Act number 28 to Paul Henry Parker.

(30) On or about September 23, 1974, Paul Henry Parker caused the payment of $916.96 from the funds of Teamsters Local Union No. 385 to Richard Mason Johnson for work not in fact performed by Richard Mason Johnson.

(31) On or about September 23, 1974, Richard Mason

Johnson returned proceeds of the payment referred to in Overt Act number 30 to Paul Henry Parker.

(32) Sometime in or near March 1975 Paul Henry Parker requested Richard Mason Johnson to sign a false affidavit concerning Mr. Johnson's receipt and use of Teamsters Local Union No. 385 funds.

(33) In early April 1976 Paul Henry Parker met with Richard Mason Johnson prior to Mr. Johnson's appearance before a federal grand jury. *During this meeting Paul Henry Parker told Richard Mason Johnson that nobody knew what happened to the Teamsters Local Union No. 385 funds that Johnson had received except he (Johnson) and Parker,* and that as long as Johnson said he got the money and spent it all, nobody could do anything about it.

(34) Between August 28, 1972 and October 19, 1972, (the exact date unknown) Charles Bullard met with Thomas A. Larkin, Herman F. Witt and Paul Henry Parker at the Teamsters Local Union No. 385 union hall in Orlando, Florida. During said meeting *Larkin stated that he had made up the defense for Love and Oglesby during their trial and that he (Larkin) would be the chief defense counsel for the trial of Witt and Bullard although other attorneys would do the courtroom work.* During said meeting those present decided that *Bullard would testify falsely at his trial.*

(35) On or about May 19, 1971 in Jacksonville, Florida, Thomas A. Larkin met with Curtis Leroy Love and Alto Oglesby and at said meeting Thomas A. Larkin searched both Love and Oglesby for electronic listening devices. At that time Larkin stated that Love and Oglesby might have been wearing a "bug" planted by the government.

(36) Between August 28, 1972 and October 19, 1972, Charles Bullard met with Thomas A. Larkin and Herman F. Witt in a bar in east Orlando. During said meeting Larkin asked Herman F. Witt if he (Larkin) would have to search Bullard for an electronic listening device.

(37) On or about March 1, 1973, *Paul Henry Parker* gave Herman F. Witt a check, numbered 3390, in the amount of *$4,892.67,* drawn on the Teamsters, Chauffeurs, Warehousemen & Helpers Local Union No. 385 checking account. Upon

receipt of said check, Herman F. Witt delivered same to Thomas A. Larkin.

(38) On or about March 1, 1973, Thomas A. Larkin received and accepted the check referred to in Overt Act number 37 above for services *he had not in fact performed.*

(39) After the delivery of the check referred to in Overt Act number 37, Herman F. Witt, at Paul Henry Parker's direction, prepared *a false justification in writing for said check.*

(40) On or about August 3, 1972, Thomas A. Larkin paid *$1,500* to the Bill Arflin Bonding Agency, Jacksonville, Florida as a partial payment *on the bond premium of Herman F. Witt.*

(41) On or about November 16, 1973, Paul Henry Parker paid $574.52 to John Wright from Teamsters Local Union No. 385 funds for work not in fact performed by John Wright.

(42) Between May 17, 1974 and August 5, 1975 (the exact date unknown) in the Atlanta Penitentiary, Paul Henry Parker threatened to kill Herman F. Witt if he (Witt) cooperated with the government.

All in violation of Title 18, United States Code, Section 371.

COUNT TWO

On or about November 16, 1973, in the Middle District of Florida, the defendants

PAUL HENRY PARKER
and
THOMAS A. LARKIN,

while the said PAUL HENRY PARKER was an officer, that is President of Teamsters, Chauffeurs, Warehousemen and Helpers Local Union No. 385, a labor organization engaged in an industry affecting commerce as defined by Sections 402(i) and 402(j) of Title 29, United States Code, did embezzle, steal and unlawfully and wilfully abstract and convert to their own use and the use of another the moneys, funds, securities, property and other assets of said labor organization in the amount of $574.52; in violation of Title 29, United States Code, Section 501(c).

COUNT THREE

On or about November 16, 1973, in the Middle District of Florida, the defendants

PAUL HENRY PARKER
and
THOMAS A. LARKIN,

while the said PAUL HENRY PARKER was an officer, that is President of Teamsters, Chauffeurs, Warehousemen and Helpers Local Union No. 385, a labor organization engaged in an industry affecting commerce within the meaning of Sections 402(i) and 402(j) of Title 29, United States Code, did unlawfully and wilfully make and cause to be made *a false entry* in the records of said labor organization required to be kept by Sections 436 and 431(b) of Title 29, United States Code, that is, the defendants did make and cause to be made a false entry on the retained copy of check voucher number 4388 and supporting documentation which described the purpose for the issuance of Teamsters Local Union No. 385 check number 4388 drawn on the North Orlando Bank, Orlando, Florida, Account No. 02 495 3; in violation of Title 29, United States Code, Section 439(c).

COUNT FOUR

On or about December 13, 1972, in the Middle District of Florida, the defendants

PAUL HENRY PARKER
and
THOMAS A. LARKIN,

while the said PAUL HENRY PARKER was an officer, that is President of Teamsters, Chauffeurs, Warehousemen and Helpers Local Union No. 385, a labor organization engaged in an industry affecting commerce as defined by Sections 402(i) and 402(j) of Title 29, United States Code, did embezzle, steal and unlawfully and wilfully abstract and convert to their own use and the use of another the moneys, funds, securities, property, and other assets of said labor organization in the amount of $675.00; in violation of Title 29, United States Code, Section 501(c).

COUNT FIVE

On or about December 13, 1972, in the Middle District of Florida, the defendants

PAUL HENRY PARKER
and
THOMAS A. LARKIN,

while the said PAUL HENRY PARKER was an officer, that is President of Teamsters, Chauffeurs, Warehousemen and Helpers Local Union No. 385, a labor organization engaged in an industry affecting commerce within the meaning of Sections 402(i) and 402(j) of Title 29, United States Code, did unlawfully and wilfully make and cause to be made *a false entry* in the records of said labor organization, required to be kept by Sections 436 and 431(b) of Title 29, United States Code, that is, the defendants did make and cause to be made a false entry on the retained copy of check voucher number 3118 and supporting documentation which described the purpose for the issuance of Teamsters Local Union No. 385 check number 3118 drawn on the North Orlando Bank, Orlando, Florida, Account No. 02 495 3; in violation of Title 29, United States Code, Section 439(c).

COUNT SIX

On or about September 23, 1974, in the Middle District of Florida, the defendants

PAUL HENRY PARKER
and
THOMAS A. LARKIN,

while the said PAUL HENRY PARKER was an officer, that is President of Teamsters, Chauffeurs, Warehousemen and Helpers Local Union No. 385, a labor organization engaged in an industry affecting commerce as defined by Sections 402(i) and 402(j) of Title 29, United States Code, did embezzle, steal and unlawfully and wilfully abstract and convert to their own use and the use of another the moneys, funds, securities, property and other assets of said labor organization in the amount of $916.96; in violation of Title 29, United States Code, Section 501(c).

COUNT SEVEN

On or about September 23, 1974, in the Middle District of Florida,

PAUL HENRY PARKER
and
THOMAS A. LARKIN,

while the said PAUL HENRY PARKER was an officer, that is President of Teamsters, Chauffeurs, Warehousemen and Helpers Local Union No. 385, a labor organization engaged in an industry affecting commerce within the meaning of Sections 402(i) and 402(j) of Title 29, United States Code, did unlawfully and wilfully make and cause to be made a false entry in the records of said labor organization, required to be kept by Sections 436 and 431(b) of Title 29, United States Code, that is, the defendants did make and cause to be made *a false entry* on the retained copy of check voucher number 5460 and supporting documentation which described the purpose for the issuance of Teamsters Local Union No. 385 check number 5460 drawn on the North Orlando Bank Orlando, Florida, Account No. 02 495 3; in violation of Title 29, United States Code, Section 439(c).

COUNT EIGHT

On or about March 1, 1973, in the Middle District of Florida, the defendants

PAUL HENRY PARKER
and
THOMAS A. LARKIN,

while the said PAUL HENRY PARKER was an officer, that is President of the Teamsters, Chauffeurs, Warehousemen and Helpers Local Union No. 385, a labor organization engaged in an industry affecting commerce as defined by Sections 402(i) and 402(j) of Title 29, United States Code, did embezzle, steal and unlawfully and wilfully abstract and convert to their own use and the use of another the moneys, funds, securities, property, and other assets of said labor organization in the amount of $4,892.67; in violation of Title 29, United States Code, Section 501(c) and Title 18, United States Code, Section 2.

COUNT NINE

On or about March 1, 1973, in the Middle District of Florida, the defendants

PAUL HENRY PARKER
and
THOMAS A. LARKIN,

while the said PAUL HENRY PARKER was an officer, that is President of Teamsters, Chauffeurs, Warehousemen and Helpers Local Union No. 385, a labor organization engaged in an industry affecting commerce within the meaning of Sections 402(i) and 402(j) of Title 29, United States Code, did unlawfully and wilfully make and cause to be made a false entry in the records of said labor organization, required to be kept by Sections 436 and 431(b) of Title 29, United States Code, that is, the defendants did make and cause to be made *a false entry* on the retained copy of check voucher number 3390 and supporting documentation which described the purpose for the issuance of Teamsters Local Union No. 385 check number 3390 drawn on the North Orlando Bank, Orlando, Florida, Account No. 02 495 3; in violation of Title 29, United States Code, Section 439(c) and Title 18, United States Code, Section 2.

COUNT TEN

On or about October 24, 1973 in the Middle District of Florida, the defendants

PAUL HENRY PARKER
and
THOMAS A. LARKIN,

while the said PAUL HENRY PARKER was an officer, that is President of Teamsters, Chauffeurs, Warehousemen and Helpers Local Union No. 385, a labor organization engaged in an industry affecting commerce as defined by Sections 402(i) and 402(j), Title 29, United States Code, did embezzle, steal and unlawfully and wilfully abstruct and convert to their own use and the use of another the moneys, funds, securities, property and other assets of said labor organization in the amount of $4,200.; in violation of Title 29, United States Code, Section 501(c) and Title 18, United States Code, Section 2.

COUNT ELEVEN

On or about March 1, 1973, in the Middle District of Florida, the defendants

PAUL HENRY PARKER
and
THOMAS A. LARKIN,

while the said PAUL HENRY PARKER was an officer, that is President of Teamsters, Chauffeurs, Warehousemen and Helpers Local Union No. 385, a labor organization engaged in an industry affecting commerce within the meaning of Sections 402(i) and 402(j) of Title 29, United States Code, did unlawfully and wilfully make and cause to be made *a false entry* in the records of said labor organization, required to be kept by Sections 436 and 431(b) of Title 29, United States Code, that is, the defendants did make and cause to be made a false entry on the retained copy of check voucher number 4288 and supporting documentation which described the purpose for the issuance of Teamsters Local Union No. 385 check number 4288 drawn on the North Orlando Bank, Orlando, Florida, Account No. 02 495 3; in violation of Title 29, United States Code, Section 439(c) and Title 18, United States Code, Section 2.

COUNT TWELVE

On or about February 16, 1973, in the Middle District of Florida, the defendants

PAUL HENRY PARKER
and
THOMAS A. LARKIN,

while the said PAUL HENRY PARKER was an officer, that is President of Teamsters, Chauffeurs, Warehousemen and Helpers Local Union No. 385, a labor organization engaged in an industry affecting commerce within the meaning of Sections 402(i) and 402(j) of Title 29, United States Code, did knowingly make and cause to be made a false statement and representation of a material fact in the Teamsters Local Union No. 385 amended annual financial report (Form LM-2) for the year ending December 31, 1971, required to be filed with the Secretary of Labor under Section 431(b) of Title 29, United States Code, and which was so filed, by *knowingly misrepresenting the purpose*

for payments made out of Teamsters Local Union No. 385 funds to Patsy Love during calendar year 1971; in violation of Title 29, United States Code, Section 439(b).

COUNT THIRTEEN

On or about March 30, 1973, in the Middle District of Florida, the defendants

PAUL HENRY PARKER
and
THOMAS A. LARKIN,

while the said PAUL HENRY PARKER was an officer, that is President of Teamsters, Chauffeurs, Warehousemen and Helpers Local Union No. 385, a labor organization engaged in an industry affecting commerce within the meaning of Sections 402(i) and 402(j) of Title 29, United States Code, did knowingly make and cause to be made a false statement and representation of a material fact in the Teamsters Local Union No. 385 annual financial report (Form LM-2) for the year ending December 31, 1972, required to be filed with the Secretary of Labor under Section 431(b) of Title 29, United States Code, and which was so filed, *by knowingly misrepresenting the purpose for payments* made out of Teamsters Local Union No. 385 funds to Patsy Love during calendar year 1972; in violation of Title 29, United States Code, Section 439(b).

A TRUE BILL

_____
Foreman

JOHN L. BRIGGS
United States Attorney

By_____
Mark L. Horwitz
Assistant United States Attorney

_____
Mark J. Vogel, Special Attorney
Department of Justice
Washington, D.C.

States

Leroy Love
John Oglesby

Violation: April 16, 1971
Seizure: Vehicle (T-II)
One 1967 Buick

Report of Interview

With Curtis Leroy Love, P.O. Box 153, Killarney, Florida, made on April 17, 1971, to Special Investigators George R. Truitt and William C. Goodman, ATF, T. F. Easterling, State Deputy Fire Marshal and Don Ellis, Investigator, Orange County Sheriff's Office, at Orange County Jail, Orlando, Florida.

In the presence of the above officers, I advised Love of his rights in accordance with Document 5661(7-66) and Love stated that he understood. In response to questions, Love stated that:

(1) he did not know why he had been arrested;
(2) he and Oglesby had had dinner together and had travelled to Overland Hauling Company, Ocoee, Florida, in Oglesby's car, to talk with the pickets on the line;
(3) he had been in the Teamster's Union, Local 385, about six weeks;
(4) he now worked for Houdaille-Duval-Wright at Disney World in Orlando and had been for about six weeks;
(5) he did not use dynamite in his work or for any reason;
(6) he had no knowledge of any bombs or explosives used at Overland Hauling Company;
(7) he had blown some stumps years back, but had not used any dynamite in years.

George R. Truitt, Special Investigator,
Alcohol Tobacco and Firearms Division

1-3-72

"Dear George

Got your letter today, sure was glad to hear from you. Well Pat was here yesterday and today.

She will be back tomorrow (illegible), to see me for two more days.

I would like to thank you and friends for what you are doing for Pat, kids and me.

I think that you are true friends, please don't let us down now, I don't think you will.

I will not worry about that.

You ask about Alto, he has his case on appeal (illegible). He will not talk to me anymore or anything. So I do not bother with him anymore.

I try to do my time and not his.

If he wants to listen to other people he can. I don't talk to him, because he will not listen to me.

Pat did fill me in on what ya'll told her. That was the best news I have got since I have been up here.

So I will look to see you next month in Fla. I would like to thank you again for helping my wife, maybe someday I can repay you for that. I will sign off for now.

Answer soon. Your friend — Bud.

P.S. Let the good times roll."

8-4-72

"Dear George

Well I will write you a few more lines to say hello. — I had a talk with Alto today, and this is what he told me.

He said if he came back to court, that he would fire his attorney and hire you.

I don't think he likes his attorney that he has now. I think you know what I mean.

So he will talk to you when he gets down there.

I have did all I can to try and help him. So now it is up to him to help his self. I'm looking out for me, my wife and kids. Maybe things will turn out for the best.

Alto is going to write you a letter, so maybe he will tell you something.

I told him you were the best attorney I know. I know you are good myself.

Maybe you can read this mess, I hope so anyway. George I don't know to much to tell you right now, only that it is hot up here.

I have something to tell you when I see you again.

Let me hear something from you on this as soon as you can answer. Soon —

Bud"

"To Mr. George Truitt
P.O. Box 2968
Orlando, Florida 32802

9-6-72

Dear George

Just a few lines to say hello, and let you hear from me. Well I don't really know what to say to you. It has been over a month since I heard from you. But I wish I knew what is going on down there. George I heard about my wife, and all that. I guess she has left me now, but I can't let that get me down.

I'm sorry that she did the kids the way she did. It hurt me real bad when I got the word on what she did.

I love her and the kids very much and always will. That is one thing she can't stop me doing.

Maybe you can get me back to court before to long now. George I need to see her real bad, and talk with her. Maybe we can work things out with her.

I don't want to lose my family if I can help it. I hope this letter finds you alright and in the best of health.

As for me, I'm getting along pretty good.

Well I will sit still and hope for the best of everything.

If you see my wife or talk to her, ask her if she will write to me.

She has not wrote me since the last of July.

It is hard to write you a letter because I can't tell you what I really feel now.

"When I see you I will tell you a few things that will maybe help me in this case.

If I ever get back to court that is.

George this is a rough life in here, I hope you can understand that.

Well maybe I will be down there before long so I can talk with you.

I will close this mess and get it in the mail. The mail is so messed up here that it may take a week for you to get it.

Alto said you did not answer his letter either, he wants to hear from you too.

Your friend —
Bud

P.S. Tell the guys hello for me."

May 30, 1973

Dear Bud and Alto:

It looks like you guys got stuck in Memphis. I guess the marshal are as broke as we are. I understand that you are getting discouraged with the progress in your case. Well, like I told you before don't give up now.

I can't tell you anything new about your appeal because I can't find out anything, The Circuit Court of Appeals has not ruled on your case as yet. The District Attorney's office tells me that it should be ruled on any day. In any case I want you guys to remember that Judge Young is a fair man and that he is aware of your assistance in the prosecution of Witt.

I keep in touch with Patsy and Mrs. Love so let them know if I can help you in any way.

May 25, Witt made bond ($50,000) and is out of jail pending his appeal.

I guess his heart attack was not a serious as we first thought.

Well I'll close now but I want you to know we're still in you corner so keep your courage up.

Make sure to let me know your mailing address when you get to Levenworth.

July 27, 1973

Dear Bud and Alto:

On July 23, 1973, the United States Court of Appeals affirmed your convictions. Now that this issue has been settled the District Court Judge in Orlando has it in his power to reduce your sentences. I hope you understand that it is still his decision to make but at least it's back in his hands.

I hope you are doing well. Just hang on and do your time one day at a time.

I understand that Mrs. Love is on her way to visit you. I know you will enjoy seeing her.

Write me a letter and let me know how you are doing.

Sincerely,

March 31, 1976

Mr. Mark Horwitz
Asst. U.S. Attorney
Middle District of Florida
P.O. Box 2593
Orlando, Florida 32802

Dear Mr. Horwitz:

Since I have not heard from you or any of your associates since my return. I am wondering what is transpiring and what I can anticipate in the immediate future.

I have compiled a documentary of the events as they happened and have typed them in that order as Mr. Truitt advised, up to April 16, 1971. This comprises my complicity and instructions from Paul Parker. I have not mailed a copy to you for fear that to do so, would cause it to have to be made available to the other side.

I would appreciate your advising me of what is transpiring and what I can anticipate in the near future.

I am scheduled for an Institutional Review Hearing (Parole Hearing) in June, 1976. As you are probably aware. I was recommended for Parole in December, 1975 by the Atlanta Institution at my Hearing on June 23, 1975, however, the Board set me off until June 1976 for my next Hearing. This is only two months away. Any assistance you can give me in this matter will be greatly appreciated. You can depend on my assistance in testimony for anything I have knowledge of at any time you desire.

Mr. Truitt has indicated his disappointment in what I have related to him. I am sorry if the facts in this matter do not

constitute what he expected. I am also sorry if the information does not make a Case for him. I am willing to take any truth determining test you suggest to confirm what I have related.

Please advise me in writing or authorize me to call you by Telephone to be brought up to date in this matter.

Thanking you in advance for your cooperation in this request, I remain.

Respectfully yours,
Herman F. Witt aka Herbert Campbell
P.M.B. 5684
808 Union Street
San Diego, California 92101

October 29, 1976

Mr. Curtis C. Crawford
Acting Chairman
Federal Parole Commission
320 First Street, N.W.
Washington, D.C. 20537

Dear Mr. Crawford:

Re: *Herman F. Witt - 964948-131*

Please be advised that Mr. Herman F. Witt, a federal prisoner, has been granted immunity by this office and has testified pursuant to said immunity before a federal grand jury here in Orlando. Following his testimony before a federal grand jury, Mr. Witt was recalled to the Orlando area where he testified during the trial of *USA* v. *Paul Parker*. Mr. Witt provided direct testimony concerning his role in certain illegal activities and his relationship there in with Mr. Parker.

At the conclusion of the above-captioned trial, Mr. Parker was convicted and Mr. Witt returned by the Marshal's Office to the custody of the Bureau of Prisons.

Mr. Witt has requested that I write this letter to you to convey the extent of his cooperation. In this regard, I can advise you that since receiving immunity, Mr. Witt has been very cooperative with the Government and his testimony was instrumental in the trial of *USA* v. *Paul Parker.*

Very truly yours,

JOHN L. BRIGGS
United States Attorney

By

Mark L. Horwitz
Assistant United States Attorney

MLH/hlm
cc's on next page

October 29, 1976

Mr. Curtis C. Crawford
Acting Chairman
Federal Parole Commission
320 First Street, N.W.
Washington, D.C. 20537

Dear Mr. Crawford:

Re: *Charles W. Bullard - 96484-131*

Please be advised that Mr. Charles W. Bullard, a federal prisoner, has been granted immunity by this office and has testified pursuant to said immunity before a federal grand jury here in Orlando. Following his testimony before a federal grand jury, Mr. Bullard was recalled to the Orlando area where he testified during the trial of *USA* v. *Paul Parker.* Mr. Bullard provided direct testimony concerning his role in certain illegal activities and his relationship therein with Mr. Parker.

At the conclusion of the above-captioned trial, Mr. Parker was convicted and Mr. Bullard returned by the Marshal's Office to the custody of the Bureau of Prisons.

Mr. Bullard has requested that I write this letter to you to convey the extent of his cooperation. In this regard, I can advise you that Mr. Bullard has been very cooperative with the Government and his testimony was instrumental in the trial of *USA* v. *Paul Parker.*

Very truly yours,

JOHN L. BRIGGS
United States Attorney

By

Mark L. Horwitz
Assistant United States Attorney

MLH/hlm
cc's on next page

January 13, 1977

Mr. Lee H. Chait
National Appeals Board Analyst
United States Parole Commission
Washington, D.C. 20537

Dear Mr. Chait:

Re: *Herman Witt - #96948-131*

This is to supplement information which I have already conveyed to the Parole Commission concerning the above-captioned individual. Please be advised that in addition to the information that I furnished in the letter of October 29, 1976, there is one additional point that I deem significant to the Board in its consideration of Mr. Witt for parole.

Throughout the course of his cooperation with the Government, Mr. Witt has been in danger as a result of his cooperation. Mr. Witt was aware of the potential danger of cooperating with the Government prior to his doing so and yet chose to supply important information and cooperate with the Govern-

ment. This danger to Mr. Witt through his assistance to the Government has resulted in the necessity of special precautions by the Bureau of Prisons in keeping Mr. Witt incarcerated. These special conditions under which Mr. Witt is being kept result in much less freedom of movement on his part while in prison. His cooperation, therefore, has not only resulted in a potential danger to his life but also has resulted in his being kept ir segregation or what amounts to segregation for several months.

Mr. Witt is paying and has paid a high price for his cooperation. That type of activity can only weigh, in my opinion, in his favor when considering parole.

Very truly yours,

JOHN L. BRIGGS
United States Attorney

By

Mark L. Horwitz
Assistant United States Attorney

MLH/hlm

cc: Edward L. Kelley, Jr., Esq.
Suite 704, Pan American Bank Bldg.
250 N. Orange Avenue
Orlando, FL 32801

Mr. Curtis C. Crawford
Acting Chairman
Federal Parole Commission
320 First Street, N.W.
Washington, D.C. 20537

Mr. Robert J. Cooper
Regional Director
U.S. Parole Commission
Greenbriar Office Park
3500 Greenbriar Parkway, S.W.
Suite 312
Atlanta, GA 30331

Mr. Herbert Campbell, #5684
San Diego Metropolitan Correctional Center
808 Union Street
San Diego, CA 92101

April 21, 1977

Mr. Lee H. Chait
National Appeals Board Analyst
United States Parole Commission
Washington, D.C. 20537

Dear Mr. Chait:

Re: *Charles W. Bullard - #96484-131*

This is to supplement information which I have already conveyed to the Parole Commission concerning the above-captioned individual. Please be advised that in addition to the information that I furnished in the letter of October 29, 1976, there is one additional point that I deem significant to the Board in its consideration of Mr. Bullard for parole.

Throughout the course of his cooperation with the Government after testifying for the Government in the case of *USA* v. *Paul Henry Parker*, Mr. Bullard has been in danger as a result of his cooperation. Mr. Bullard was aware of the potential danger of cooperating with the Government prior to his doing so and yet chose to supply important information and cooperate with the Government. This danger to Mr. Bullard through his assistance to the Government has resulted in the necessity of special precautions by the Bureau of Prisons in keeping Mr. Bullard incarcerated. These special conditions under which Mr. Bullard is being kept result in much less freedom of movement on his part while in prison. His cooperation, therefore, has not only resulted in a potential danger to his life but also has resulted in

his being kept in segregation or what amounts to segregation for several months.

Mr. Lee H. Chait
April 21, 1977
Page 2

Mr. Bullard is paying and has paid a high price for his cooperation. That type of activity can only weigh, in my opinion, in his favor when considering parole.

Very truly yours,

JOHN L. BRIGGS
United States Attorney

By

Mark L. Horwitz
Assistant United States Attorney

MLH/hlm

cc: K. Scott Charlton, Esquire
1411 N. Westshore Blvd., Suite 110
Tampa, FL 33607

Mr. Curtis C. Crawford
Acting Chairman
Federal Parole Commission
320 First Street, N.W.
Washington, D.C. 20537

Mr. Robert J. Cooper
Regional Director
U.S. Parole Commission
Greenbriar Office Park
3500 Greenbriar Parkway, S.W.
Suite 312
Atlanta, GA 30331

Mr. Charles Linsley, #10664
San Diego Metropolitan Correctional Center
808 Union Street
San Diego, CA 92101

June 22, 1977

Mr. Mark Horwitz
Asst. U.S. Attorney
Middle Dist. of Florida
80 North Hughey
Orlando, Florida 32801

Dear Mr. Horwitz:

This letter is of a two fold nature so I will list them in the sequence of their importance, in my opinion.

No. 1.
You are more than likely aware of the fact that a 2255 Motion has been filed in my behalf.

The grounds for the Motion is based on the fact that erroneous information is contained in my Pre-Sentence Investigation Report. This information was learned during my Parole Hearing in San Diego, in July, 1976. The Parole Officer who conducted the hearing advised me of it at that time.

Since my arrival in Lexington, I have requested a copy of the report, under the Freedom of Information Act and was advised that I could not have a copy however, I was granted the privilege of reviewing the document. There is other incorrect information in the report which is not mentioned in the Motion.

I think you are aware that my main concern is to get before Judge Young and take the chance that since the Parole Commission has not and in my opinion will not give me a break, give me some relief in this matter. I do not believe he intended for me to maximum the sentence when he gave me a 4208 (a) (2). I have thirty eight (38) months served now, counting Jail Time. Anything you are willing to do in my behalf will be greatly appreciated. You can rest assured that you will never be embarrased by me for anything you do.

No. 2.
The letter you said you would write concerning my custody has not been received as yet. I am presently Minimum Custody however, in order for me to be able to go on furlough and group escorted trips outside the institution, Community Custody, is required.

As I informed you on the phone the last time we talked. Mr. Tommy Norris, my Caseworker, informed me that a letter from you was all I needed to be granted Community Custody.

Mr. Mark Horwitz
Asst. U.S. Attorney
Middle District of Florida
Page 2

His concern was the danger or sensitivity of my being hurt while on furlough however the escorted town trips require Community Custody. These trips are unannounced trips for the purpose of shopping, dinner theater, and recreation. We are permitted to wear our own clothes here and the recreation trips are very helpful to moral, much less, the opportunity to go on furlough to see and visit with my mother who is in very bad health at the present time.

There is no way I can go to see her secretly, because of the fact that the Parole Officer investigates to determine if the party who you wish to visit is desireous of your visit.

I have learned enough (the hard way) since I started cooperating to take the necessary precautions to protect myself by keeping my whereabouts secretive. I have no fear what-so-ever of anything happening to me on furlough.

Another factor of importance to me is the fact that I would be able to travel to Court unescorted with Community Custody if you would make the request in your Writ. This would be of a great financial help to me in case I should be granted a hearing on my Motion or otherwise. I would gladly inform you of my arrival time at the airport and you could have a Marshal meet me there. Again with my solem promise that I will never embarrass you or myself.

A letter from you in this regard will be greatly appreciated at your very earliest convenience since my eligibility for furloughs become effective in July.

Please send me a copy of your letter so I may have it for my file. Since Mr. Tommy Norris is no longer my Caseworker, please address your letter to:

Mr. David Couchman
Unit Manager (Anteaus)
P.O. Box 2000
Lexington, Kentucky 40511

Thanking you in advance for your cooperation in this matter, I remain.

Respectfully yours,
Herman F. Witt 96948-131
P.O. Box 2000
Lexington, Kentucky 40511

MLH:lh July 6, 1977

Mr. David Couchman
Unit Manager (Anteaus)
P.O. Box 2000
Lexington, Kentucky 40511

Dear Mr. Couchman:

Re: Herman F. Witt, 96948-131
72-68-Orl-Cr (Cl.)

I have been requested to communicate with you in regard to Herman F. Witt, who is presently a prisoner at the Lexington Institution. It is my understanding that Mr. Witt is desirous of being allowed to visit his mother on furlough and to be included in your Community Custody program.

I know of no reason why Mr. Witt should not be permitted to take part in those programs if he otherwise meets your requirements.

Very truly yours,
JOHN L. BRIGGS
United States Attorney
By

Mark L. Horwitz
Assistant United States Attorney

Copy to: Mr. Herman F. Witt 96948-131
P.O. Box 2000
Lexington, Kentucky 40511

July 11, 1977

Mr. Mark Horwitz
Asst. U.S. Attorney
Middle Dist. of Florida
P.O. Box 2593
Orlando, Florida

Dear Mr. Horwitz:

This letter is to express my thanks and gratitude for your letter to Mr. David Couchman, with regard to being granted Community Custody, which was received today. I will more than likely be reviewed and given this custody within two weeks. I should then be permitted to go on a furlough within a month. I will be eligible for two furloughs between now and the last of December. Beginning January, 1978, I will be eligible every thirty (30) days. The average furlough is for five (5) days.

Thanks, again!
Herman F. Witt

Charles W. Bullard
Box 7
Deer Lodge, Montana 50722

Date July 11th - 1977

"Dear Mr. (illegible)

I am writing as you requested in regards to my problem.

#1 in February 1976 I was given a three year continuance on my parole. I do have a 4202-A2 Number in which the Guide lines read 2 years Maximum for a Continuance!!

#2 I was transferred from the M.C.C. in San Diego, California, to the Montana State Prison!

here I have to pay for my own stamped Envelopes, which runs $1.50 to $2.00 per week. I also have to furnish my own socks and underclothes!

I also have to pay $100.00 for a (illegible) as the Prison (illegible) not furnish this for the living quarters!

it cost me over $8.00 Eight dollars to call San Diego for my personal (illegible)! Not like the Federal Prison system, we have to buy our own tobacco. Since (illegible) cigarettes cost 86 cents per day, that is 43 cents per pack.

This is a nice Institution, but it is costly when you don't have no money coming in!!

(illegible) is such a distance from home, which is North Carolina, that it is impossible for my family to visit me.

(it was my understanding, that Mr. Horwitz, the D.A. in my case, was going to get me either in (illegible), N.C. or Lexington, KY!!)

I think I have a problem that needs looking into. Your immediate attention will be greatly appreciated.

I am waiting for your reply.

Sincerely, Charles
W. Bullard
#10664
P.O. Box 7
Deer Lodge, Mt. 59722

P.S. I was assured by Mr. George Truitt whom is with the ATF in Orlando, Fla., that I was to be reimbursed for the money I spent."

September 8th, 1977

Charles W. Bullard #10664
PO BOX 7
Deer Lodge, MT. 59722

Dear Mr. Carlson:

I just received a letter from Congressman Bill Hefner which was forwarded to him by your office.

In this letter you stated that I was sent to Deer Lodge MT, State Prison for safety reasons!!

this was due to my cooperation with the Government.

Mr. Carlson. I was told by the assistant US Attorney, Mark Horwitz, that I would NOT have to serve any time in segregation if I cooperated with the Government.

Agent George Truitt who is with the A.T.F. led me to beleave that I would get out of Prison soon after the trial was over in United States V. Parker.

not only have I served a great deal of time in segregation, since I became a government Witness but, I have been transferred so far from home, that only the people who I fear can reach me.

I have been advised since I have been here that there is a hundred and fifty thousand dollar contract on me.
I was told this by an inmate, (Jim Driver) and was also informed by one SGT, (sgt. Cofflin) that he had been told that there was a contract on me.

I feel that the Government could move me to either Eglin Field, max field ALA, or Butner N.C. at either of these institutions, I could be treated as any other Federal Prisoner.

Here at Montana Prison, I have to furnish my own writing paper envelopes which are stamped in the prison Canteen, also I have to furnish my own under clothes.
I had to purchase a T.V. through the prison canteen also, in order to watch a full T.V. program.

Above all this, there is no one here that can tell me anything about meeting a parole board, or anything concerning my good time.
I am working down town attending meat cutting class un garded, my custody here is medium 11 which is next to the best custody you can get.
with this in mind, I can not understand why the Government can not place me in one of the above mentioned Institutions.
anything you can and will do for me will be greately appreciated,
"I would also like to mention to you that I got a 3 year set off from the parole Board in 1976, when the guide lines say I can only be set off for 24 months!!! no one here can give me any information on this either.
I hope you will take into consideration what it's like on me here with inmates asking me ever day, what I am doing here if I am a Federal Prisoner, and what I did to get my time.

not to mention the fact that I am so for from home that I can never expect to get a visit from my family.

Mr. Carlson. the records will show that I got regular visits when I was in Atlanta G.A. they will also show that I have not had a visit for nearly two years.

I know I could never go back to a maximum security prison like Atlanta, but in view of the circumstances, I do feel that you should consider me for one of the Institutions I have mentioned.

So you think I have been treated fairly? I have been mis led by the Agents and the assistant Prosecuting Attorney.

had I not beleaved them, then it stands to reason that I would not have Coo-erated and put myself in this sort of situation. Where I can not face the people I once knew as friends.

I am no longer considered a good convict due to my cooperation, I, am now pegged as a snitch as you are well aware of.

I ask you Mr. Carlson, is this treatment that I am getting JUSTICE?

I have never hurt anyone in my intire life, (physically) yet I have seen Murderers come and go home, Bank robers, sex offinders and people that has constantly robbed E.T.C.

YET I have never stolen a dime off of anyone, yet I have been In Prison and Jail since the first part of 1972.

I have in a total of five years and five months on my sentence, I was In Jail for nearly a year before my trial in 1973!!!

I don't beleave you can find anyone that will consider me a menace or a threat to Society, two guys I never met before, in the Orange CO Jail at Orlando, florida, testified that I wanted to hire them to hurt two witnesses, yet, the records show that I never had any knowledge of the witnesses when this took place, one of the Guys was in Jail for Child abuse, this charge was dropped on him, the other Guy was in for Interstate Gambling, the charge was dropped on him also.

"I realize you have no controll over the Courts, however, I was only trying to inlighten you on the type of evidence that got me

Convicted. I do not claim to be innocent of the Conpircy, but, I am just as innocent as you are of attempting to Influence Witnesses. I have testified to this even after being granted Ammunity from further Prosecuting.

Respectfully, Charles W. Bullard 10664"

November-10th-1977

Mr. Lin Brumley
Bureau of Prisons
PO BOX #1272
Bismark, N.D. 58501

Charles W. Bullard
PO BOX #7
Deer Lodge, MT. 59722

Dear Mr. Brumley:

I am writing to you in hopes that you may be able to clear up several matters for me.

(1) in 1976, I appeared before the Parole Board in Atlanta, Georgia, the Date was February 19th, 1976. The Board set me off 36 months! In May, 1976, the Board set forth new guide lines, which State that you can only be set off for 24 months!! Now, question no. one is (if the new parole guidelines are not retroactive, then how can the Board deny me a hearing 24 Months from May 15th, 1976, at which time the new Guidelines went into effect?) New guideline affect all cases after effective date not prior.

(2) I have been incarcerated for nearly 6 years, I have never had a Furlough, Though I am In Medium II custody, I can be placed in Minimum, all I need do is apply for it, I work Down Town in a Meat Cutting School, I do not have a Guard over me, and there are no Bars E.T.C. where I work, I have been in for 5 Christmases in a row, the Prosecuting Attorney and the Agent that worked on my Case, (Mark Horwitz asst Attorney for the Government) and (George Truitt with the A.T.F.) both told me on the Phone in the presence of my case worker, (Mr. Voskamp), that they would both recommend that I be granted a Furlough.

The Institution here, will grant the Furlough, If, you will advise them as how to process it!! I would like to spend this XMAS with my Mother, she is in very bad health, and the trip home would do us both good.

her Name and address is Martha Purvis, 107-A wrighton st, Morganton N.C. 28655 her phone NO. area code-704-437 3067. if granted a Furlough, I will at all times during my Furlough be at my Mothers OR, My sisters Home, my Sister is Mrs. Shirley Miller, 611 west round st, Landis, N.C. 26038, her phone NO, is, area code 704-357 3632. Anything that you can do for me will be greately appreciated.

If you have anything that states the rights of Federal Prisoners in State Institutions, I would appreciate this Information also.

Respectfully,
Charles W. Bullard #10664

P.S. my date of birth is 3-25-1936

June 26, 1975
Home 813 238-6136

Mr. Herman F. Witt
Box PMP
Atlanta, Georgia 30315

Dear Herman:

I just finished a lengthy conversation with Mr. Truitt of the Treasury Department. I related to him your two requests, namely immunity and transfer out of Atlanta to Orlando or some other place.

Mr. Truitt was very receptive of this and indicates that if you are willing to help him he will do all he can to see that your two requests are met. Both of you should keep in mind, however, that once you start talking whether anyone is convicted by reason of your testimony or not you will be endangering yourself.

I hope to have some word from Mr. Truitt within no more than a week and as soon as I hear from him I will either call you or write you again.

If you have any questions, please do not hesitate to communicate with me.

Very truly yours,
Scott Charlton

SC:mh

July 11, 1975

813-238-6136

Mr. Herman F. Witt
Box PMP
Atlanta, Georgia 30315

Dear Herman:

On Thursday, July 10, 1975, I had a lengthy conference with Mr. Truitt and Mark Horwitz of the United States Attorney's Office in Orlando. The purpose of our meeting was to discuss your case and to see what could be done for you in return for your helping them.

First, and most important of all, this letter should probably be destroyed after it is read because of the inherent danger in having someone find it.

From my conversations with Mr. Horwitz and Mr. Truitt I get the distinct impression that they are willing to grant immunity and have you transferred somewhere else within the federal penal system in return for your cooperation. I believe they would do this without any further evidence of good faith on your part; however, I believe that they would be more inclined to help you if you would agree to discuss this matter, in generalities, with Mr. Horwitz (I will be present) so that he can understand the nature and extent of your knowledge of this case. It is not essential that you do this in that I feel that they will grant you the immunity you ask and have you transferred without doing so, but I do believe it would be in your best interest to consent to this. Please let me know immediately if you will allow Mr. Horwitz to come to Atlanta to talk with you.

Regarding immunity, you would be granted what is known as "use" immunity. That is, that none of the testimony you give can be used against you nor can any evidence obtained through leads furnished by you be used to prosecute you. In other words, you are almost absolutely safe from a prosecution standpoint. There is also the further thing that they really have no desire to prosecute either of you further.

Mr. Herman F. Witt
Page Two
July 11, 1975

Regarding transfer, transfer to Eglin or a similar minimum security facility cannot be accomplished. However, there are a number of what is known as medium security prisons such as in Texarkana, Texas, to which you can be transferred.

There are also the additional considerations of help from the prosecutors at the time each of you become eligible for parole.

However, I must reiterate to you that they frankly are somewhat distrustful of you and your motives. In other words, you are definitely going to have to tell them nothing but the absolute truth, holding back nothing. If either of them get the idea that you are holding back something or being less than truthful, they will make this matter known to the parole authorities, and I am sure you known what effect this will have on your application for parole.

Please let me know immediately whether:

1. You are willing to discuss this matter in generalities with Mr. Horwitz prior to the grant of immunity (immediately after this discussion you will be transferred somewhere out of Atlanta), or

2. Whether you wish to have the immunity granted before you talk with him.

As I previously stated, it would be my recommendations that you discuss this matter in generalities with Mr. Horwitz first.

Please write to me or call me collect immediately to let me know your position. From my discussions with them I anticipate that it would take approximately thirty to forty five days to get the immunity granted and get you transferred.

I look forward to hearing from you.

Very truly yours,

SC:mh

Scott Charlton

February 24, 1976

John-Edward Alley, Esquire
Alley and Alley
Post Office Box 1427
Tampa, Florida 33602

Re: Overland Hauling

Dear John-Edward:

Several times recently I have raised the questions of a fee division with reference to the above, however, we have yet to reach any agreement, much less even discuss the matter.

As I am sure you are aware, I have invested considerable time in this matter as well as other matters for your firm. However, upon recollection, it seems that all the matters I am working on now are on a contingent fee basis with no agreement as to how I will be paid. I have not worked with you on any matter that involved hourly billing in a number of months.

In view of the fact that we have not been able to reach any type of an agreement, and further in view of the fact that recent developments make it necessary that I withdraw from the Overland case, I am submitting herewith a statement for services rendered to date. In view of the fact that you have this matter on a contingent basis, I will not expect the statement to be paid unless and until a recovery is affected. If for some reason the litigation should not produce a fee, then I would, of course, not expect to be paid.

Additional consultation will be at the rate of $60.00 per hour; contingent upon recovery.

Very truly yours,

Scott Charlton

SC:mh
Enclosure

February 24, 1976

John-Edward Alley, Esquire
Alley and Alley
Post Office Box 1427
Tampa, Florida 33601

Re: Overland Hauling

STATEMENT

TO SERVICES RENDERED:

Consisting of consultations with reference to the suit filed against the Teamsters; trips to Atlanta to confer with witnesses; attending the depositions held in Orlando; numerous conferences with members of Alley and Alley reference to this litigation. $10,000.00

Tampa
February 26, 1970

Mr. Scott Charlton
Peavyhouse, Giglio, Grant, Clark & Charlton
1411 North West Shore Boulevard
Tampa, Florida 33607

Dear Scott:

This will acknowledge receipt of your letter of February 24, 1976. As you are well aware, I have offered several times to meet with you concerning this matter, and had requested that you get in touch with me when you returned from one of your many skiing trips. My last letter concerning this is dated December 31, 1975. I will certainly be happy to sit down with you and discuss this matter any time at our mutual convenience.

With regard to your statement that you have invested considerable time in this matter as well as other matters for our firm, it is my recollection that you have been handsomely compensated for the work which you did except for that work which you agreed to take on a contingent fee basis. In some instances, you were paid your full hourly rate when our firm had to cut its fees because of the excessive time involved.

You will no doubt recall that one of the last cases that you worked with us on in which an hourly billing was involved was the Refrigerated Transport case. Because you failed to follow up on answering interrogatories, when the client had even sent you the information to answer the interrogatories and you wrote the client and asked for the same information over again, it required us to send an attorney to hearings on Motions to compel answers to one interrogatory.

I have no knowledge concerning whether you have invested considerable time on the Overland Hauling case. I do know that you attended one or more depositions, made one or more

trips to Atlanta and had some discussions with the Federal agents concerning Herman Witt. You were associated in an Of Counsel capacity to assist in the handling of this entire case and specifically in the trial of the case. I certainly regret that "recent developments make it necessary that [you] withdraw from the Overland case" and i certainly do not want to get in any dispute with you over this case or any of the other cases on which you have been working with us. Nevertheless, I cannot agree to your statement of $10,000. If we recover a judgment of several million dollars, then certainly your statement may be in order; however, if the recovery, in settlement or final judgment, is under $100,000 then I think that your statement is out of line. There has been a great deal of lost motion in this case because of the fact that you took all of the notes from your meetings with Herman Witt but apparently have lost those notes and cannot give us any detailed information on what Mr. Witt is able to establish through his direct testimony and because you have been less than completely helpful in responding to the attempts at discovery by the Defendants.

Dan Kunkel has scheduled numerous meetings with you to try and get something done on the interrogatories. You are well aware that the IBT has moved to compel answers and for sanctions for failure to answer or answer completely the interrogatories. As you know, there is a hearing scheduled for a week from Thursday. We would appreciate your getting with Dan, as you have agreed, to review this matter.

As I said, Scott, we don't want to get in a dispute with you over this case and we have tried to overlook your deteriorating attention to this case. If you will keep time records, I certainly have no objection to additional consultation in this case at the rate of $60 per hour, contingent upon recovery.

Please give me a call at your convenience to set up a meeting to discuss this matter in detail.

Sincerely,
ALLEY and ALLEY, Chartered

John-Edward Alley

JA/tsh

10-1-71

"Dear Mother, Dad - (illegible)

Got your letter today, glad as always to hear from you. Well I don't know what to say about your letter. I told you when you were up here to tell that man that I would talk to him.

It is up to him to get in touch with me. I can't call him and I think he should come see me. I have stayed in here to long as it is.

So call and tell him I said if he would like to know anything that I am the one to talk with.

I don't think they have a case to start with but tell to talk with me anyway.

I hear a man from the F.B.I. in Washington is down here checking on the case on us.

And he don't like what he found out about it. So I thing we will beat the hold thing.

But so much for that.

Write and tell me when you will be back to see me. And wish daddy a happy birthday for me.

Hope he has many many more to come.

It has been hot and nice here the last week or two. I was going to ask did you ever call Chris or not? You did not say anything about it in your letter, I would like to know. I wrote her a letter but no answer as of yet.

Mother, I have got to write mr. Larkin before Alto runs me crazy.

So I will cut this short and try and write more next time.

Maybe I will hear something on this case before long.

So till I see or write you again be good and may God Bless and watch over you daddy,

All My Love to you daddy - Wayne
Love always your son - Bud."

10-22-71

"Dear Pete:

Got your letter today sure was glad to hear from you. Well I don't know what to write you.

You ask if I wrote the judge. yes I wrote him last week, no word as of yet.

I hope they will take us back to Jim's trial.

If we go back we can beat the whole works.

Isaw my lawyer last night and told him I wrote the judge he said he did not care.

If I would like to talk with those people it was alright with him.

So I hope they come up to see me.

To see what they have to offer.

Not much they want something for nothing.

But you can bet they wont get something for nothing. I

have been going over my transcript all day and have found enough to go back to court on.

And I know they don't want us back in court. They know they will lose the case if we do.

So I hope they will bring us back to Orlando.

You said we could get five more years if we go to court for Him.

Tell them to bring us back if that is what they want.

I can not tell you what we have because it may get to the wrong people.

If we come back we will be loaded for bear.

They know they don't have anything so they hope someone will help them out.

But you tell them to come see me - I will talk to them to what they have to say.

I don't have to say anything you know that.

Pete I know these people and when they don't have anything they want to make a deal I know.

I have been in court I know how they will do you. I will be looking for them next week hope they come. If they wait to long tell them there is no use to come up.

Well so much for that.

The weather is bad up here now has been the last two days.

Pete I will close for now and hope to hear from you soon.

Love your Brother - Bud"

Mrs. Christina Love
Rt 1
Granger, Washing 98932

A.C. 854-2132 Mrs. Murray

11-4-71

"Dear Mother, Dad - Wayne

Just a few lines to say hello and let you hear from me. Well I don't know too much to write about.

I got a letter from Pete today sure was glad to hear from him. I think he is right about what he said.

So I wrote Larkin and fired him.

I have heard him lie to much and not (illegible) anything about our case.

I told Pete to tell (illegible) to (illegible).

(Illegible).

(Illegible).

(Illegible) that I should have listened to you before but you know me. Hard head.

But I hope things will change now.

Well so much for that.

Pat came up to see me and I was glad to see her and the boys. She left yesterday going home.

Tell Wayne I did not know - he had broke arm. He must have one because he will not write me. Mother tell him I said to stay away from that bar before he gets in trouble.

Well I don't know to much to write about (illegible) will close for now answer soon. All My Love to you,

Love (illegible) your son Bud and (illegible) Love (illegible)

Have Pat call that man for me."

Number 7.)

THE COURT: Mr. Horwitz, you may begin.

MR. HORWITZ: Thank you, Judge.

CURTIS LEROY LOVE

called as a witness by the Government, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. HORWITZ:

Q Sir, please state your full name and spell your last name for the record.
A Curtis Leroy Love, L-o-v-e.

Q Sir, have you ever been convicted of crimes involving bombings in the Orlando area?
A Yes, I was.

Q When was that, do you know?
A The crime was committed on April 16, 1971.

Q What were you — what was that crime?
A I was convicted of blowing up the Overland Trucking Company in Ocoee, Florida.

Q Were you involved at a picket line in Keystone and Overland before that event happened?
A Yes, I was.

Q What were you doing at those picket lines?
A I was walking the picket line at Keystone and Overland.

Q Were you working at that time also?
A Yes, I was working at Walt Disney World.

Q What were you doing there?
A I was driving a truck.

Q Who for?
A Houdaille-Duval-Wright out of Jacksonville.

Q Do you recall when the strike first started at Keystone?
A No, I don't.

Q Let me ask you this. Did you have an occasion to meet with a man by the name of Herman Witt while you were at the strike picket line at Keystone?
A Yes, I did.

Q And did you have an occasion to travel with him to a Constable in Winter Garden?
A Yes, I did.

Q Do you recall when that was?
A No, not exactly, I don't, no.

Q Was it before the bombing that you were convicted of?
A Yes.

Q About how long before the bombing?
A I couldn't say for sure.

Q Was it a week, or more?
A Could have been a week or so.

Q What kind of car did you drive then?
A Black Lincoln Continental.

Q And who did you know the man, this man by the name of Herman Witt, who did you know him to be?
A Herman Witt?

Q Yes.
A He was Business Agent for the Teamsters Union.

Q And while you were in the car with him driving to Winter Garden did Witt mention anything to you concerning his desire to have some bombings done?
A Yes, he did.

Q What did he say to you?
A The best I remember he told me that he wished he could find a man that he could trust, and I told him as far as I knew he can trust me.

I asked him why he was looking for this person and he said, well, he needed some bombings done to get a truck company to sign union contracts.

Q Now, did you say anything to him at that time?
A I told him that I would think about it, I would let him know at a later date.

Q Did you later learn that the dredge at Zahna Sand Mine had been bombed?
A Yes, I did.

Q Did you have any conversation prior to that Zahna Sand Mine bombing?
A I had heard through the grapevine that Zahna would be hit and several other places.

Q Did you ever talk to Mr. Witt again and tell him whether you would be willing to do these bombings?
A Yes, I did.

Q About how long after you had the conversation with him in his car did you have the second conversation where you told him you would do the bombings?
A Just a few days, I believe it was.

Q What did you say to him at that time?
A I told him that I would take it, that I would do it for him.

Q Did you have any dynamite at that time?
A No, sir, right then I didn't.

Q Did you ever receive any dynamite?
A Yes.

Q Who did you receive it from?
A Herman Witt.

Q Did you receive any from Mr. Brown?
A Yes, I did.

Q And now, which one — who did you receive dynamite from first?
A I'm pretty sure I got it first from Johnny Mack Brown.

Q Where did you get that?
A It was some he had, and he was, he brought it to my house, the best I remember on that.

Q What did it look like?
A It was sticks about ten inches long, seven sticks in a bundle, and there were some loose sticks.

Q When you talked with Mr. Witt and you told him that you would do it, did he describe any places that he wanted bombed?
A Yes.

Q What did you say?
A He wanted Keystone Trucking Company in Killarney and he wanted Overland Hauling in Ocoee plus Overland Hauling in Brooksville, and any leased truck that was leased to either company.

Q Did you in fact bomb the leased truck?
A Yes, I did.

Q Remember when you did that?
A No, sir, not positive. I don't know, no.

Q About how long — what bomb did you use on that? Where did you get the bomb that you used on the leased truck?
A That was one I believe I got from Johnny Mack Brown.

Q Whose leased truck did you bomb?
A Some fellow by the name of Moore, I believe it was.

Q When did you do it during the day or night?
A About twelve-thirty on Saturday night or Sunday morning.

Q Where was this truck?
A Sitting in the front yard.

Q How did you get out to it?
A My wife drove me out. I got out about a block from his house and walked back and put a five-stick bomb on the left front tire of the tractor.

Q Did you hit it?
A Yes, I hit it.

Q Then what did you do?
A I walked back to the highway, got in the car with my wife, and we left went back through Gotha back around Highway 50 and went to the Keystone picket line.

Q Did you also bomb some Keystone trucks?
A Yes, I did.

Q When did you do that?
A That was after Moore's truck was blown up.

Q Who did you go out to Keystone with?
A Johnny Mack Brown and Charles Bullard.

Q When you got out there — how did you get out there?
A We went from Killarney by Keystone up to Oakland and then went south to Highway 50 down Highway 50 west.

Q Excuse me. You didn't understand my question. Where were you when you were leaving to go to Keystone to bomb?
A We were at my house in Killarney.

Q Who did you leave with?
A Johnny Mack Brown and Charles Bullard.

Q Did you drive the car?
A Johnny Mack Johnny Mack Brown did, yes.

Q You were all in Brown's car?
A Yes.

Q What happened when you arrived at Keystone?
A We rode by there and checked the picket line and everything and then we went around, came in the back way, and walked up to the trucks in the back.

Q What did you do?
A Charles Bullard and I lit two seven-stick bombs and pitched those over the fence under the two trucks.

Q How many did you, yourself, hit?
A One.

Q How many did Bullard hit?
A One.

Q Then after you threw the bombs what did you do?
A We walked through a small orange grove that was there at the time and back to the picket line and got into the car with Johnny Mack Brown.

Q Did you ever have an occasion to meet at the Ramada Inn and receive some bombs?
A Yes, I did.

Q Do you remember where that Ramada Inn was?
A That was on South 441.

Q What time of the day or night did you go there?
A That was at night when we went down. It was fairly early. I don't remember exactly what time it was.

Q Was it after dark?
A Yes.

Q When you got there who if anyone was there?
A Charles Bullard was there, Herman Witt was there and some other fellow, I don't know who he was.

Q Where did you meet them in the Ramada Inn?
A It was on the south side of the Ramada Inn on one of the wings. I don't remember the room number or anything.

Q Tell us what the room looked like.
A Well, when you walked in the door the bed was sitting longways across the room.

The bathroom was in the southeast corner.

Q What were the people doing when you arrived?
A Mr. Witt was sitting on the bed, I believe, at the time we entered.

This other fellow opened the door and then he walked to the back next to the restroom. That is where he stayed the whole time we were there.

Q What happened while you were in the room?
A We picked up a sack of dynamite that was wrapped in seven-stick bundles except for one which — I had ordered the dynamite in seven-stick bundles except for one which was eleven-stick.

Q What did you do with the dynamite?
A We took it home.

Q Where was that?
A In Killarney.

Q Is that your home?
A Yes.

Q What did you do with it when you got them at your home?
A I stashed it in the top of the closet.

Q Had you ever taken a bomb to Mr. Duvall?
A Yes, I did.

Q When was that?
A It was right after we got this from Mr. Witt.

Q Had anybody told you to take the bomb to Duvall?
A Yes.

Q Who?
A Herman Witt told me to take a seven-stick bomb to Mr. Duvall.

Q Where did you take the bomb? Where did you go to deliver the bomb?
A The Overland picket line in Ocoee.

Q How did you get there?
A Johnny Brown and I drove my car over there.

Q What did you do when you got there?
A Well, Mr. Duvall had come from up north or somewhere, and he went home.

A fellow by the name of Paul Henshaw was on the picket line and we told him we brought something to Mr. Duvall and he said he went home.

So we told him that we would take it out to Bithlo and stash it in a cove and when Mr. Duvall came back that he could find it there.

Q Did you ever hid any bombs in the woods?
A Yes. I hid the remaining of the dynamite that I had left in the woods in my county.

Q Did you ever take a bomb out to the Overland Hauling Company?
A Yes, I took one out there.

Q On April 16, 1971?

A Yes, it was.

Q Who did you go out there with?
A Mr. Alto Oglesby.

Q When did you go out there, in the daytime or nighttime?
A I went out there at night.

Q What happened when you got there?
A Well, we rode by the picket line and drove to — we went out there and turned around and came back, and I was trying to light the dynamite when we started down, approaching Overland.

It didn't light, so we went around two or three blocks there and came back and I got it lit, and Mr. Oglesby pulled up at Overland Hauling and I stepped out and threw the bomb on top of the building, got back in the car, and drove on down the highway there.

Q What happened then?
A The federal agents arrested us, stopped us and arrested us.

Q Did you stand trial for throwing that bomb?
A Yes, I did.

Q Did you testify in your own defense?
A Yes.

Q At this trial?
A Yes, I did.

Q Did you tell that jury that you had thrown the bomb?
A No, sir, I did not.

THE COURT: I didn't hear where he said he threw the bomb at Overland.

THE WITNESS: I threw it on top of the office building at Overland Hauling.

BY MR. HORWITZ:

Q After you were arrested you ever talk to Mr. Parker about your throwing the bomb at Overland?
A When I got out of jail on Saturday morning or Saturday

afternoon I saw Mr. Parker at the local union hall here in Orlando.

Q When you were getting ready to go to trial did you also see him around at that time?
A Yes, I saw him.

Q Did he ever tell you to say or not say something at your trial?
A Well, he told me about the same thing my lawyer did.

MR. RUSS: I would like to have an instruction now as regarding the matter of hearsay on behalf of my client, Mr. Wingate.

THE COURT: All right. I would like counsel to approach the bench, please.

(At the bench.)

THE COURT: What you are asking him about now relates to events which took place after April 16?

MR. HORWITZ: That is correct.

THE COURT: Specifically about contact between him and Mr. Parker?

MR. HORWITZ: That is correct.

THE COURT: Why is that relevant?

MR. HORWITZ: It shows, I think it shows the extent of that after the conspiracy. It shows that Mr. Parker was knowledgeable of the events and told this man not to say anything about it.

I think it shows — the testimony was from Witt earlier that if and when they did, that anything happened, they would be provided with the best lawyers and taken care of.

Part of the conspiracy was it was anticipated, if anything happened, all steps would be taken to avoid their detection or imprisonment, conviction and imprisonment.

MR. RUSS: Is it alleged in the indictment, Your Honor —

THE COURT: Well, if it is, you say you think it shows that Parker was involved in the conspiracy. It is an effort after the termination of the conspiracy to conceal.

MR. HORWITZ: That is correct, Your Honor, it is, but I think the testimony from Witt was that was part of the agreement, that if something happened they would try to get those that were caught, get them out.

This is, in that regard, a direct statement by Parker to —

THE COURT: What do you think he will say that Parker told him?

MR. HORWITZ: His words were "Keep your mouth shut and your bowels open."

THE COURT: Keep your mouth shut and your bowels open?

MR. HORWITZ: That is what he told me he was told.

MR. RUSS: I don't think that I have a standing to object as to what testimony this man wants to give as to directing it to Mr. Parker because I am not defending Mr. Parker, but I do object strenuously on behalf of my client, Mr. Wingate, on the grounds it is irrelevant and immaterial, and outside of the scope of the conspiracy both in time and announced objective purpose.

If this testimony is going to be offered again I would move as I have before for severance of my client from this trial.

MR. COHEN: I couldn't hear all of what Mr. Russ said.

THE COURT: He just said he was moving for severance and objects to the testimony.

MR. COHEN: All right.

On behalf of Mr. Burch, Your Honor, we also object as being beyond the scope of the conspiracy alleged, and beyond the scope of the charge in the indictment.

MR. MADDOX: For the record, if the Court please, we object for the obvious reason it is beyond the allegation in the indictment as to the lack of the indictment which the Court has touched on.

I would like the record to show my objection to isolating any testimony in that regard.

THE COURT: I am going to sustain the objection. Whatever slight relevance it might have to the case against Parker I think is outweighed to the potential danger that it might have to all three of the defendants.

MR. RUSS: I have one query, Your Honor. I would like to inquire who the man is in the Courtroom talking to Mr. Truitt?

THE COURT: That is the Marshal.

MR. RUSS: The Marshal. Thank you.

THE COURT: Yes.

(In open Court.)

BY MR. HORWITZ:

Q Sir, did you serve a prison term as a result of your conviction?
A Yes.

Q Excuse me?
A Yes, I served one.

Q How long?
A Thirty-three months.

Q Did you advise any Government agents as to where you had hidden the bombs in the woods?
A Yes, I did.

Q Who?
A Mr. George Truitt.

Q When was that?
A That was after I was in Atlanta, I had been to Atlanta.

Q Atlanta Penitentiary?
A Yes.

MR. HORWITZ: No further questions.

THE COURT: All right. Mr. Maddox, any cross?

MR. MADDOX: I have no questions, Your Honor.

THE COURT: All right.

MR. RUSS: No questions, Your Honor.

THE COURT: All right. Mr. Cohen?

MR. COHEN: I have no questions, Your Honor.

THE COURT: All right. Thank you, Mr. Love.
You may stand down.

(Witness excused.)

THE CLERK: Do you solemnly swear that the testimony you shall give in this cause shall be the truth, the whole truth, nothing but the truth, so help you God?

THE WITNESS: I do.

DIRECT EXAMINATION

BY MR. HORWITZ:

Q Please state your full name and spell your last name for the record.
A George R. Truitt, T-r-u-i-t-t.

Q How are you employed, sir?
A I am a Special Agent for the Alcohol, Tobacco and Firearms, U.S. Treasury.

Q Where is your present duty station?
A Miami, Florida.

Q Prior to that where were you stationed?

A Orlando, Florida.

Q When were you stationed in Orlando?
A From '69 until '76.

Q We have a screen set up here. I would like to talk to you about some slides that you took and we'll get into the rest of the questions.
You took some pictures of a cache of bombs discovered; is that correct?
A Yes.

Q Where did you discover those bombs?
A In a Fosgate Mine in the Minneola section of Lake County, Florida.

Q Anybody tell you the location of those bombs?
A Curtis Leroy Love told me where they were, the

* * *

to you or led you to believe I expected you to put Judge on for that purpose and I didn't.

MR. HORWITZ: All right. I am just advising the Court I am progressing along much faster than I anticipated.
I will have Mr. Truitt and three other witnesses today and I have two other witnesses that won't be here until tomorrow morning plus Judge Young and that is it. The Government will rest its case.

THE COURT: That is fine.

MR. HORWITZ: We are moving along faster than I anticipated.

THE COURT: That is fine. The defendants should anticipate then —

MR. RUSS: We have been moving along the lines here in the direct testimony — it may take a determination on your part to determine what is coming out here.

THE COURT: All right.

(In open Court.)

BY MR. HORWITZ:

Q Drawing your attention to January 18, 1975, did you have occasion to travel to the Atlanta Penitentiary?
A Yes.

Q Who did you travel there with?
A Tommy Stokes, Agent Stokes.

Q What if anything happened? Who did you go to Atlanta to see?
A Mr. Witt.

Q Excuse me?
A Mr. Witt, Herman Fulton Witt.

Q That is the gentleman who testified here last week?
A Yes.

Q Did you see him there?
A Yes, I did.

Q Where?
A At the prison in the waiting room.

Q Who was with you when you saw him?
A Stokes, Agent Stokes.

Q At that time did you discuss any matter relating to other cases with him?
A Yes.

Q Discuss anything related to this matter presently here pending?
A At the very end of the interview.

Q What did you ask him?
A I asked him if he wanted to tell me anything about the Teamsters investigation and he stated that — asked me a question did I want him to commit suicide or something along those lines.

Q Did he say anything else about that?
A Kept saying the same thing.

Q Did you at that time make him any promises to get him to talk to you about the subject then or later?
A No, sir.

Q Promise to get him out of the prison?
A No, sir.

Q Did he say anything to you at that time other than what you have described concerning matters that appear in Court today?
A No, no. He didn't say anything about what's here today.

Q Did you have another occasion to meet in Atlanta Penitentiary with Mr. Witt on the 31st of July, 1971?
A 19 —

Q Excuse me, 1975.
A Yes.

Q And who did you meet with? Who was present at this meeting?
A Scott Charlton, you and I, and, of course, Mr. Witt. We met in segregation. We met Charles Bullard later that day.

Q And at that meeting were there any promises or inducements made to Mr. Witt at that time?
A Well, there were promises. There was two promises: One regarding immunity and one regarding protection if they did ever choose to tell us, to ever talk to us.

Q At the time did he provide any specific information concerning items with which you were interested?
A No, no specific information.

Q Did he provide any information?
A In a general manner they claimed to have knowledge but they did not say who or what.

Q Did they say they would provide specifics if given immunity?
A I don't remember them saying that. I don't remember — I do remember them conferring with Mr. Charlton and more or less he represented that if they could be protected or if they could be immunized from further prosecution that they probably would tell us, would talk to us.

Q At this time did you promise or were there any promises made to Mr. Witt or Mr. Bullard that they would be released from jail if they cooperated?
A No, sir.

Q Were they promised an earlier parole if they cooperated?
A No, sir.

Q And now, did you have an occasion to visit with Mr. Herman Witt on April 20 and 21, 1976?
A Yes, sir.

Q Where was that?
A San Diego, California.

Q And where in San Diego?
A Metropolitan Correctional Institute.

Q A correctional center?
A Correctional center.

Q Was this a federal penitentiary there?
A Yes.

Q Describe how it was that you entered that building?
A Well, of course, you enter on the first floor and you went through a metal detector.

You had to check in with a desk equivalent to a desk sergeant.

He put you on an elevator and sent you to the floor that you were supposed to get off on. You got off in a little cubical and there was a monitoring camera in the corner, and a guard came to the door, steel door and asked the man downstairs who was looking through the camera if we were the people that he had just sent up there and he said we were. So he unlocked the door.

We went into a bigger room and this man unlocked another door and we went into a common area, went into another room, and we were joined by Mr. Witt.

Q Who was present for this meeting?
A You, Hal Swain and I.

Q Who is Hal Swain?
A He is with the Department of Labor.

Q At that time did Mr. Witt give you an eleven-page typewritten document that he entitled statement of facts?
A Yes.

Q At that time were there any promises made to Mr. Witt that he would be released from jail?
A No, sir.

Q Any promises that he would be given early parole?
A No, sir.

Q At any time that you talked with Mr. Witt have you made any such promises or know of any such promises being made to him?
A No, sir.

MR. HORWITZ: I have no further questions at this time.

THE COURT: All right. Any cross, Mr. Maddox?

MR. RUSS: I would like to approach the bench.

THE COURT: All right.

(At the bench.)

MR. RUSS: This is in regard to the Jencks Act statements.

THE COURT: Yes.

I would like the Jury to be taken out. Would you mind taking the Jury out for just a minute, please.

(The Jury left the courtroom at 4:05 p.m.)

MR. RUSS: Your Honor, I am calling at this time for the Government to produce materials that would fall under the Jencks decision, or legislation, and under the Brady decision, and to provide that to me which is contained in Mr. Truitt's case file.

I am specifically asking for his reports concerning contacks he had with Herman Witt's wife, Carolyn Sue Witt, in the calendar year 1975 which I have reason at least to suspect relates to some of the

* * *

A 1975, yes, 1975.

Q How many times after that time had you conferred with Mr. Bullard, for instance?
A Several times.

Q Well, after you saw him on July 31, 1975, when did you next see him, that is, Mr. Bullard, now?
A I would say November 17th.

Q Of 1975?
A Yes.

Q Was this just prior to his testimony before the grand jury here in Orlando on the 20th of November?
A It was three days.

Q Did you see him on the 21st?
A No, sir. I think I saw him on the 26th.

Q 26th?
A November 26, 1975.

Q And when did you next see him, him meaning Mr. Bullard, now.
A December 3, 5 and 10.

Q That was here in Orlando?
A That was here in Orlando, right. I think it was in the old courthouse, post office courthouse on Robinson.

Q On those occasions, 3, 5 and 10th of December, who was with you when you conferred with him?
A Mr. Horwitz would have been with me some, Hal Swain, compliance officer of the Labor Department, and I think Mr. Charlton was there on one occasion.

Q Which occasion was that when Mr. Charlton was there?
A I don't know. I would have to guess. I would say it was November 17th.

Q At that time on those occasions you were aware, were you not, that Mr. Charlton was one of the plaintiffs lawyers in the lawsuit that was pending?
A No.

Q What did you understand his position to be, or what was he doing there? What did you understand?
A He represented himself to me to be attempting to obtain immunity for Mr. Witt and Mr. Bullard.

Q Mr. Charlton told you that he was attempting to get immunity for Mr. Witt and Mr. Bullard?
A That is correct.

Q Did he enlighten you as to the reason for his so doing?
A No, sir.

Q Did he ever throughout the whole thing tell you what he was doing there, the purpose for the immunity?
A Purpose for the immunity? No. He told me that if they were to testify in a case that I would be interested in that they would have to be granted immunity from further prosecution.

Q That is what he told you, if they were to testify you would be interested in the case?
A Well, let me say this. I don't know whether those were the exact words or not but that was certainly the implication.

Q I understand. Well, when was your first contact with Mr. Charlton in point of time? Now, I am not referring to an exact date, but if you have it, no, I would like to have that.
A June 25th, 1975.

Q June 25?
A Yes.

Q Where was that?
A In Tampa.

Q What was the occasion for that meeting between you and Mr. Charlton?
A Well, the best I can remember he called the office, called me at my office and asked if I would come and talk with him.

So like the next day I traveled to Tampa — this was June 25, 1975, and he made no special representations for Witt and Bullard but he did say that if they were to testify, that they would have to be immunized or not be exposed to more time than they already had.

Q I see. Did he tell you at this time that he had already contacted or had interviewed Mr. Witt and Mr. Bullard or either of them?
A I don't think he told me that, but I could clearly draw that from the way he talked. It was that he was representing them in an attorney-client representation.

Q All right. What was your response to that information that Mr. Charlton gave you?
A Well, I told him that I don't give immunity, that I would make it known to the U.S. Attorney's Office that there were those representations being made, and maybe I could talk one of the attorneys into coming and talking with him, being an attorney, and they could, I hesitate to use the word negotiate, but I don't know any other word to use.

Q Well, is that what you did? Did you come back and tell Mr. Horwitz or someone from the U.S. Attorney's Office that, did you tell them of your conversation with Mr. Charlton?
A Yes, I did.

Q Who did you tell?
A Mr. Horwitz.

Q What happened after that with regard to meeting with Mr. Charlton? Where was the next meeting and when?
A The next meeting was the first part of July, I would say the 10th.

Q At what point did you discover there was a lawsuit pending wherein Mr. Charlton was attorney for the plaintiffs?
A I never did discover it. I was — I have since found that out, that it was settled in Court.

Q Settled?
A Well, as I understand the provisions of the settlement.

Q In that regard do you recall your deposition attempting to be taken in connection with that lawsuit?
A Yes, I remember.

Q In 1975?
A Yes.

Q Where was that?

A It was here in Orlando.

Q You knew, of course, at that time there was a

* * *

TRANSCRIPT OF IN CAMERA PROCEEDINGS had in the above-styled cause, held on Wednesday, September 15, 1976, in the U.S. Courthouse and Federal Building, Orlando, Florida, before the Honorable John A. Reed, Jr., United States District Judge.

(In Chambers.)

THE COURT: Let the record show this is an in camera examination of Norman J. Abood who is an attorney and member of the Florida Bar with offices in Jacksonville.

I am not going to put you under oath, Mr. Abood, because you are an officer of the Court. I will simply accept your representations to me.

NORMAN J. ABOOD,
called as a witness by the Court, testified as follows:

EXAMINATION

BY THE COURT:

Q Now, do you have an attorney-client relationship with Herman Fulton Witt and Charles William Bullard?
A Yes, I did.

Q When did that relationship commence in point of time?
A In point of time as to Herman Fulton Witt the attorney-client relationship had its inception in

* * *

Q I think that would eliminate the question as to him.
A Right. Mr. Witt has instructed me, and I am going to unless, you know, otherwise instructed by the Court, to stick to the confidentiality aspect of the thing.

Q All right.
A Would the Court want me to remain until such time as you see Mr. Charlton?

Q I would, and I would like you to remain until I make my ruling in open court, please.
A Thank you.

Q Thank you a lot.
A I appreciate it.

(Mr. Norman Abood left the Court's chambers at 11:30 o'clock a.m.)

SCOTT CHARLTON,
called as a witness by the Court, testified as follows:

EXAMINATION

BY THE COURT:

Q Mr. Charlton, have a seat, please.
A Yes.

Q I am not going to put you under oath. I would just like to talk with you about your relationship with Witt and what you do have in your file.

Mr. Charlton is a member of the Florida Bar, has offices in Tampa, and the Court does not feel it necessary to swear him.

Would you tell me when your attorney-client relationship with Witt arose, what the purpose of it was, and when it terminated, if it did terminate.

A Your Honor, the origin of it is somewhat vague in that shortly after suit was filed in the civil case which I believe it was assigned to your division of the court —

Q Yes.
A — we received a joint letter, and by that when I say "we", I mean Granville Alley of the Alley, Alley, Blue law firm, Mr. Alley received a letter signed by both Mr. Witt and Mr. Bullard, Charles Bullard, to the effect that they wished to confer with us and tell us everything that they knew about the subject matter of the complaint we filed.

Our interest was, of course, with reference to Overland Hauling.

Q You were representing Overland Hauling at the time?

A Yes. At that time Mr. Alley's firm represented Overland Hauling. I had not formally taken part in any of the proceedings. I had nothing to do with the drafting of the complaint, the signing or filing of it. This arose some time later, I am not exactly sure when it was.

In talking with Mr. Alley about another matter he mentioned to me that a complaint had been filed and would I like to work with the firm on it, and I said yes, and it evolved from there.

Shortly after we received the letter from Mr. Witt and Mr. Bullard —

Q Were you associated with the Alley firm at the time, or were you in the independent —
A No, I have always been independent of them.

Q I see.
A I have in that capacity enjoyed a very loose relationship, counsel status with them, not from the standpoint of — I guess the real reason behind it was client control on their part.

They didn't want their client to know they had to go outside of their firm to have litigation handled on occasions.

Q Yes.
A The letter from Mr. Witt and Mr. Bullard is dated June 10, 1975.

Shortly after that I went up there apparently to, on June 20th, 1975, for the purpose of finding out what they could tell us with respect to the

* * *

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Appendices to Petition for a Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit has been furnished, by mail, to Wade McCree, Jr., Solicitor General of the United States of America, Department of Justice, Washington, D.C., and to Edward W. Wadsworth, Clerk of the United States Court of Appeals for the Fifth Circuit, 600 Camp Street, New Orleans, Louisiana 70130, this _____ day of April, 1979.

_____
ATTORNEY